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# Chronicles

A MAGAZINE OF AMERICAN CULTURE

## RESTORING THE CONSTITUTION

*Seizing Power From Judges,  
Congressmen,  
and Other Usurpers*



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DECEMBER 1987/3



**A recent report** issued by the National Endowment for the Humanities raises serious questions about what our children are learning in public schools. *What Do Our 17-Year-Olds Know?* compiled by Assistant Secretary of Education Chester Finn and Columbia Teachers College Professor Diane Ravitch, is based on a cultural literacy test administered to nearly 8,000 high school juniors.

The study revealed that only 31 percent of the students can identify the Magna Carta, and nearly a third thought that the Spanish Armada was destroyed in the Spanish American War! The authors describe the students' answers to the history section as "a shameful level of performance" and call for a beefed-up humanities curriculum.

The only surprise in the report has been the reaction of the public. We heard all this 20 or 30 years ago from people like Jacques Barzun and Russell Kirk, who took pains to remind us of our heritage. Once upon a time in America we thought we knew what was important. We celebrated marriage, hard work, and patriotism, and we recognized that certain books and certain types of knowledge were central to our civilization: Shakespeare and Homer, the Bible (in the authorized version), Vergil's *Aeneid*, and the essays of Dr. Johnson. Those of us who cared about such things expected our children to have read these authors and to know about things like the Magna Carta or how to count backwards when the dates are B.C.

All that was some time ago, before the smart professors of education found out that what our children really needed was not Latin and French and ancient history but Health and Guidance, Drivers Ed, Sex Ed, Drugs Ed, and "Social Studies." The same smart professors told us that education

shouldn't be parochial, that our children should learn about all the cultures of the world, not just the narrow corridor that runs from ancient Greece to modern America.

So, between the 1930's and the 1960's we overhauled our entire system of public education. To no one's surprise, it turned out that many modern students don't even know who Homer (much less Dr. Johnson) were. What's more, they act as if they've never heard of Magna Carta and couldn't name the second President of the U.S. to save their lives.

We knew all this at least 20 years ago and decided to do nothing about it. We had more important things to worry about—Vietnam, Watergate, the Superbowl. Now a whole string of smart professors—Allan Bloom, E.D. Hirsch, and Finn and Ravitch—are front-page news for repeating the familiar story.

Still, *What Do Our 17-Year-Olds Know?* is unsettling for a number of reasons. First and foremost, it reminds us that our schools are failing miserably at one of their primary tasks: Quite simply, they are not preparing young Americans to take their place within our civilization. It is worse than a national disgrace. It is a national emergency, and we should be grateful to the authors—and to the NEH—for drawing our attention to an urgent problem.

However, the report is disturbing in less obvious ways. The students were asked multiple choice questions on what we used to call "nickel knowledge" topics. Most of the questions have obvious answers, although some of the choices were baffling. Since when, for example, is *Raisin in the Sun* a classic that could be regarded as required reading. A man who knew too much might also be troubled by some of the oversimplifications. Even

if the questions were masterpieces of test design, though, the multiple choice format is highly questionable in itself. Indeed, such tests were once in the vanguard of the attack on cultural literacy.

Back in the 1950's, when the College Board was shifting from essay tests to multiple choice, the decision was justified on a number of grounds—the ease of administration and scoring, "scientific" accuracy. Just as important was the contention that essay tests encouraged the teaching of standard "classics" in high school—obviously a bad thing. Now a new set of multiple choice tests reveals the students are not learning the classics. What a surprise! Besides, the whole idea of scientific accuracy in teaching the humanities is preposterous. Standardized tests and scientific surveys serve no useful purpose for either the students or the teachers. The only group that benefits are the educational researchers who receive government grants to collect and analyze the test data.

The classics of Greek, Latin, and English literature are the only real "basics" of a humanities education. They cannot be taught or tested as the latest edition of trivial pursuit. We need to throw away all the canned and programmed learning—literature textbooks, workbooks, and standardized tests. Until we do, and until we begin teaching the real thing again, we will continue to pay more and more smart professors for documenting just how far wrong we have gone.

**"It is not fair,"** said Ms. Holley Rauen of the no-fault decision in husband S. Brian Wilson's mishap at a Navy weapons depot in California. Mr. Wilson, a protestor against U.S. policy in Nicaragua, was bumped by his colleagues while scrambling out of the

way of a munitions train. Unable to get up from his cross-legged sitting position in the middle of the tracks fast enough, Mr. Wilson lost both his legs. "With all the evidence we have," said his wife, "there was some attempt to run the train at the protestors. It is inexcusable to let this go by."

It is now an unalienable right to conduct a break-and-enter sit-down on a private track, so long as the motive is opposition to an elected President's policies. Mr. Wilson (46), it is true, is free to proclaim his kinship with the children maimed in the Nicaraguan civil war, and his sponsors, the Nuremberg Actions, are free to continue their protests at the weapons depot, providing they do not claim immunity from the laws of physics. (Laws of the land are a different story.)

Those who break the law for "conscience's sake" are always surprised by the consequences of their actions. Moral outrage beckons them beyond the law, which they don't mind invoking in cases like Watergate or Irangate. But whether it is the Sanctuary Movement, trespassing upon military property (a free-fire zone in most of this world), denying the right of speech to "fascists" and heterosexuals on college campuses, they exhibit little regard for "unjust" laws and customs, even the laws of nature. If Sir Isaac Newton were around today, his response to the famous falling apple that struck him on the head would be something like, "Hunh?"

**Representative Pat Schroeder** has dropped out of the race for the presidency, embarrassing many galvanized feminists with the copious tears she shed as she aborted her candidacy. Why, after all, couldn't she act more like a man? But long after her tears are forgotten, Schroeder's political influence will be felt, especially in her strong advocacy for federally funded day care. By advocating greater public support for day care, Schroeder has helped to bring the issue to the floor of Congress and the cover of *Time* magazine.

Almost one million American pre-schoolers are already in day-care centers, with another four million receiving some other type of nonmaternal care. The chief force behind the new

popularity of day care is the rising employment of women. Fully 35 percent of women with children under five now work full-time, with another 20 percent working part-time. By comparison, in 1960 only one-fifth of mar-



ried mothers with children under six were in the work force, even part-time.

Yet in the rapid proliferation of day-care centers in recent decades, the effects upon young children have received only scant and belated attention. In their zeal for female employment, some feminists brush the question aside. Many day-care professionals fear that investigation into the risks of nonmaternal child care will imperil their income. Parents of children in day care frequently take comfort in reassuring early studies, unaware that specialists now discount the research techniques then used.

Many questions about day care remain unanswered today, but leading researchers are beginning to reach some disturbing conclusions. Some even wonder if day care—so widely accepted without precautionary research—will not prove to be the "Thalidomide of the 1980's."

Perhaps most shocking is the discovery that, like thalidomide, day care may be linked to serious birth defects. Recent research has shown that children in day care are twice as likely as home-reared children to contract a virus (cytomegalovirus) which, when passed on to pregnant mothers, can cause birth defects affecting hearing, brain development, muscle function, and vision.

Other diseases, less threatening to the unborn but more dangerous to infants and toddlers, also flourish at day-care centers. Medical authorities have implicated day-care centers in the spread of intestinal diseases such as diarrhea, dysentery, giardiasis, and epidemic jaundice. Pediatricians also blame day-care centers for alarming outbreaks of bacterial meningitis and hepatitis A. One prominent health official in South Carolina expresses fears that day-care centers are exposing children to risks "reminiscent of the

pre-sanitation days of the 17th-century."

Besides the health problems, child psychologists now believe that day care can cause serious emotional and social problems. A number of carefully designed new studies reveal that day care weakens the mother-child bond even among "low-risk" infants from intact middle-class families, even at quality university-administered programs. In the opinion of Peter Barglow of the Prizker School of Medicine in Chicago, the new findings provide strong evidence that the mother is "by far the best caregiver for the child in the first year."

Compounding the problem is the tendency (newly documented) for working mothers to monopolize the child's evenings and weekends, thus weakening the child's relationship with the father as well. Psychologists predict that children whose bonds to parents have been strained will become more aggressive, less cooperative, and more emotionally distant in later life. Some observers worry that day-care fostered attitudes will eventually translate into marital discord and higher divorce rates.

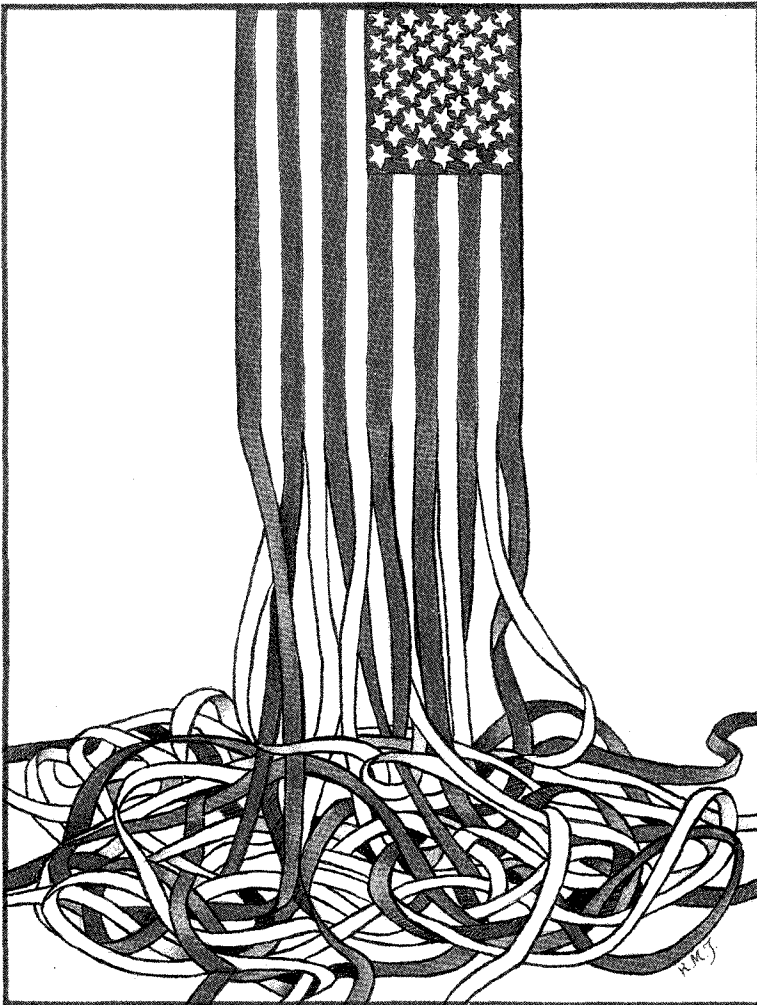
Unfortunately, because many working mothers work out of financial necessity, the latest research will only intensify their feelings of guilt. According to a recent survey conducted by Cornell University, two-thirds of full-time working mothers with children under 12 already say that they would prefer to work fewer hours so that they could spend more time with the family.

Clearly, America needs new policy initiatives to alleviate some of the financial pressures that now force mothers to leave their children in the care of others. First, the tax credit for child care, now given only to working mothers, could be made available to working and nonworking mothers alike. Second, the personal tax exemption could be enlarged to \$3,500 or even \$4,000 for dependent children, allowing one-earner families to keep more of their earnings. Both proposals would mean a substantial loss in federal revenues. But failure to act will only expose ever-more children to the hazards of day care. And *that*—unlike the end of Schroeder's campaign—would be a real reason for tears. (BC)



## TYRANNY IN A GOOD CAUSE *by Thomas Fleming*

*Democracy or Republic?* might well be the title of the debate between liberals and conservatives on the nature of the American political system. (In the view of some liberals, the easiest way to spot a conservative is the habit of referring to America as a republic.) Democracy, in the strict procedural sense of one man/one vote and majority rule, has always been anathema to conservatives who recognized the threat to family, community, and decent social order posed by such a revolutionary scheme.



Like the early Federalists (and later on the Whigs), American conservatives have prized stability and liberty above equality and fraternity. With Metternich, they could agree that "You cannot exaggerate the goodness of the people, I might say of all peoples; but their ignorance is as great; therefore they must be led."

If conservatives like to trace their descent from John Adams and Alexander Hamilton, they would be as justified in holding up Madison, Jefferson, Calhoun, and even Andrew Jackson as their spiritual forefathers. The suspicion of governmental power, the hostility to an entrenched elite, combined with a willingness to let each man go to the devil in his own way—these "conservative" characteristics can more readily be found in Jefferson than in any of the Federalists, and it is significant that the great individualist and elitist Albert Jay Nock regarded himself as Jefferson's disciple.

With the partial exception of Tom Paine—who was never really an American—there weren't any true-blue democrats among the Founding Fathers, and the democrat/republican debate serves no useful purpose. Like most of our political and social quarrels, the terms of the debate only obscure the real subject at issue. Two topics, primarily, occupied the framers and founders, and neither of them was democracy. The first was the problem of setting up a republic in a territory as vast as the United States occupied even before the Louisiana Purchase; the second was the matter of adjusting the relations between the states—in a word, federalism. The influential poet and propagandist Joel Barlow put the case succinctly in 1801. Using an architectural metaphor, Barlow argued that the American system was based on two essential principles, democratic representation and federalism:

There is one maxim which ought not to be forgotten, that these two pillars of the edifice, the representative principle and the federal principle, should never be separated. Though one of them alone may promise liberty and the other of them alone may promise peace, yet we cannot be confident that either liberty or peace will become extensive or permanent, unless these well assorted principles are united in one system, and kept inseparable in their practice.

By itself, the representative principle quickly leads to the majoritarian tyranny by which urban New Yorkers and Californians may legislate the morals and social codes of

*The argument of this essay is derived from Mr. Fleming's The Politics of Human Nature, Transaction Books (December 1987).*

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rural Nebraskans—or vice versa. The triumph of representation without federalism may be seen in such inspired experiments as Prohibition and, although the situation is a bit more complicated, *Roe v. Wade*. While the Supreme Court is not an elected body, it is chosen by the President and approved of by the Congress. As such, it is supposed to represent the national will on legal and constitutional questions. For much of the 20th century, the national judiciary at all levels, backed if necessary by the armed forces, has deliberately overridden the federal principle in the name of democracy and representative government, although it has never been clear that a majority of voters ever approved of forced busing or the ban on school prayer.

Federalism, not republicanism or democracy, expresses the genius of the founders and of the American people. The greatest exponent of federalism, Thomas Jefferson, made the clearest exposition of the principle in his proposals for public education in Virginia. In a letter to Joseph C. Cabell, Jefferson declared that the secret of good government was the division of power and the allocation of responsibility to the appropriate levels of authority:

Let the national government be entrusted with the defense of the nation and its foreign and federal relations; the state governments with the civil rights, laws, police, and administration of what concerns the State generally; the counties with the local concerns of the counties, and each ward [roughly a township] direct the interests within itself. It is by dividing and subdividing these republics from the great national one down through all its subordinations until it ends in the administration of every man's farm by himself, by placing under everyone what his own eye may superintend, that all will be done for the best.

In the forthcoming issue of *Chronicles*:

## *Institutionalized Writing*

"Despite these howls, however, Bulgakov was not shot, the theater was not closed down, and the play was not banned. The fact was—Stalin was coming to the theater regularly to see it. From his personal loge, hidden from other viewers behind a slightly drawn curtain, he, according to the Art Theater's archives, saw *The Days of the Turbins* at least 15 times."

—from "Thoughts on Mikhail Bulgakov"  
by Leon Steinmetz

If Jefferson was the most thoroughgoing federalist, the authors of *The Federalist* were not far behind. Hamilton, in number 17, declared that the roots of federalism lay in "the known fact in human nature, that its affections are commonly weak in proportion to the distance or diffusiveness of the object." Strongest in families, it grew progressively weaker as it was forced to extend itself to an entire nation. Hamilton also defended state sovereignty and denied that the national government's taxing power could be used as a pretext for interfering in the rights of states. In number 28 he declared that state militias would be used to resist such usurpation. Madison concurred and in number 46 suggested that states would band together to prevent such encroachments. Even the arch-centralist John Marshall declared (in his infamous decision on *McCulloch v. Maryland*) that "no political dreamer was ever wild enough to think of breaking down the lines which separate the states, and of compounding the American people into one common mass."

The response of many "antifederalists" was simply that the Constitution did not go far enough in its federalism. Patrick Henry stuck at the phrase "We the people," instead of the states of America." In the early years of the republic, however, federalism seemed to work reasonably well. When Tocqueville made his famous visit, he noted the vigor of local government in New England and observed that "the townships are only subordinate to the state in those interests which I shall term social, as they are common to all the citizens. They are independent in all that concerns themselves."

It would be a mistake to overemphasize the uniqueness of American federalism. While the Constitution is entirely deserving of the praise lavished upon it—indeed, it is underappreciated—ours is not the first attempt to construct a nation out of confederated polities. Madison, Adams, and other well-read American statesmen were familiar with such ancient experiments as the Achaean league and with the more recent examples of Switzerland and the Holy Roman Empire. In many respects it is the Empire, with its mosaic of local authorities and traditions and nicely graded levels of sovereignty, that is the best exemplar for American federalism.

Not coincidentally, the most elaborate theory of federalism was put forward by Joannes Althusius (or Althaus), a German Calvinist lawyer who used the Holy Roman Empire as his model. His *Politics*, first published in 1603, is a curious blend of Aristotle, Roman law, and Holy Scripture. The root concept is the *Consociatio Symbiotica*, that is, the natural association of people living together. In the very beginning of his work, Althusius states the dominant theme:

Politics is the art of allying people together for creating, cultivating, and preserving a social life among themselves. . . . All government is held together by sovereignty and subjection; the human race right from the beginning proceeded from sovereignty and subjection. For Adam was constituted lord and monarch by God over his wife and all those who were born from her and the rest. . . .

In the course of his great work—and it is a disgrace that American political thinkers are so little familiar with it—Althusius repeats Aristotle's arguments that man is a social animal and, like Aristotle, begins his discussion of social organization with the family and proceeds from there to corporations, cities, provinces, and the empire. The key to the whole matter, as Carl J. Friedrich points out, is that on all levels the union is composed of the units of the preceding level. In this sense the constituent members of the empire or nation state cannot be individual citizens but such lower political units as provinces (in the U.S., states) and cities. If there is a failure at some level, if a link in the chain breaks, it is not up to individuals to choose a successor or restore order. It is the responsibility of the constituent members. Our own electoral college was designed along similar lines. Indirect election is not so much a case of insurance against irresponsible democracy (the opinion of Sir Henry Sumner Maine) as it is a recognition that America is not governed by "we the people" except through its natural communities.

Althusius' federalism has obvious points of contact with Aristotle and with the social philosophy of the Catholic Church as it was expressed in Pope Pius IX's *Quadragesimo anno*: "One should not withdraw from individuals and commit to the community what they can accomplish by their own enterprise . . . nor transfer to the larger and higher collectivity functions that can be performed and provided for by lesser and subordinate bodies."

Indeed, federalism is not so much a theoretical principle as it is a set of observations. Families really do take care of their own; communities can and do regulate their own affairs without any national police telling them what to do. It is built into the nature of man, as Hamilton recognized, that we care most for those who are near and dear to us, and we are prepared to do for children and neighbors what we would not dream of doing for strangers.

All of this could be derived from a serious reading of the Scriptures or from Aristotle's *Politics*; however, even a thoroughgoing materialist cannot fail to be impressed by the arguments now being put forward by sociobiologists. Creatures are interested in their fellows, so the evidence suggests, in direct proportion to the degree of genetic relatedness. Parents and children, brothers and sisters are related to the highest degree of 50 percent, a ratio that decreases in the ever-widening spirals of kinship. In a natural village community, virtually everyone is more related to each other than they are to strangers, and that alone is sufficient to explain the origin of patriotic group loyalty.

It is not just biological evolution that can be called into the service of political federalism. If political anthropology has anything useful to teach us, then it seems clear that man has passed through a series of stages in his social evolution up to the state. The ancient theory of Aristotle, that families coalesced into villages, and villages into political communities, has found confirmation in the more recent work of E.R. Service and Ronald Cohen. All that remains is to point out that modern men and women, in their moral and social development, gradually recapitulate the stages of human social evolution. We begin by loving only our mothers, then our immediate family, then the neighbors, eventually our town. Some go so far as to love

their state or their region; fewer learn to love their country; and a few saints earn the right to endure the entire human race.

One of the central tenets of liberalism (and of a certain degraded, Sunday school religion) is an insistence upon the universality of social obligation. By liberalism, let it be understood, I mean that evolutionary movement in political philosophy symbolized by Hobbes, Locke, Bentham, and, say, Sidney Hook. Whether it takes the form of a libertarian assertion of individual rights (translation: increase the power of the state and demand police protection for pornographers) or the leftist credo of John Rawls, who thinks we all have to give everything away to the Third World until their standard of living rises to meet our own, liberalism is radically opposed to federalism in all its forms and to the very idea that human beings have natural obligations. To be fair, liberals do not especially hate the family, and they are occasionally willing to praise the democracy of New England town meetings; however, liberalism is radically opposed to federalism in any form, because the liberal faith in universal principle virtually compels them to make war on all natural, rooted institutions of human society.

Men are programmed by nature and, I should say, designed by God, to grow up and reproduce autonomous families, to govern their local affairs in face-to-face self-governing communities, and to operate on the national and international stage only by way of those higher levels of political association that have grown out of family and community. It is as wrong for the national government to interfere with local school districts as it is for a private citizen to conduct foreign policy. In extreme cases, we call the one tyranny and the other treason, but they are only different sides of the same coin.

The American system of local autonomy, state sovereignty, and limited national government worked well for two generations. By the mid-19th century, however, the sectional debates over tariffs and slavery were a powder keg which—to be ignited—needed only the election of a centralist politician whose principles took precedence over the long-standing federal arrangements. Lincoln himself declared that if he could save the Union by destroying the Constitution, he would. Before he was through, he had done both. To his credit, Lincoln viewed his own actions as emergency measures; within his own party he was a moderate—the unbalanced Charles Sumner told Charles Francis Adams Jr. that moderates like Lincoln and Seward were traitors! Lincoln's own plan for Reconstruction would have gone a long way to restoring the autonomy of the states and the natural balance of powers that had existed before the war. His premature death is a rare case when the word "tragic" actually applies to a political event, because it revealed all too clearly the true nature of democratic absolutism. Had he lived, the generous and humane Lincoln would have delayed the recognition.

In the century and a quarter following Lincoln's death, the American people have witnessed a steady erosion of the federal system. The 14th Amendment has been used with reckless abandon as the pretext for subverting state and local governments; the taxing power has been used in precisely the manner that Hamilton rejected—as a wrecking bar;

## The Île de France

by Jean Tardieu

(translated by Peter Dale)

I wandered along beside your face  
poplars canals and palaces too  
across the roofs the clouds' race  
you spoke low I listened to you.

I wandered near your banks and strands  
you were only a smile a sleep  
your rocks your storms your hands  
from dream to sun would sweep

Loved by a shadow clan  
gentle faces tables laid  
across paintings you ran—  
in a corner gleamed a blade

Drum, cannon and cockade  
I was ready when night fell  
on velvet was I laid  
harvest lea forest-dell

I went to sleep in your murmuring  
people sang and the beasts  
the music's delirious ring  
death silence peace.

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state governments have preyed upon local authorities; and all levels of government have passed laws interfering in family life. On the other side of the coin, private citizens have taken up the habit of showing the *medius digitus* to state: They resist the draft, invade public property, conspire to shelter illegal aliens, and go about the world making deals with foreign heads of state. It is a complete muddle, and rare is the politician—liberal or conservative—who cares anything about the problem; rarer still is the politician who is willing to do anything. Under the circumstances, voter apathy is understandable.

The current low estate into which politics and politicians have fallen is very much the result of the deliberate hypocrisy that is practiced upon the American people. We talk grandly of our democracy while at the same time making war upon any group of citizens or any region that offends us. In the name of democracy we tell local school boards how to run their schools and force them to redraw district lines to achieve racial balance. It is a weakness in the national character that goes back to the palmy days of the Mathers. It is the mark of the puritan that he cannot bear the idea that anyone is different from himself. He is like the little girl in the children's story who lay awake at night fretting because the town clocks did not agree with hers.

A reformation at the point of a bayonet is no reformation at all, and it cannot be said that 125 years after emancipation race relations in the U.S. are all they might be. Still,

we cannot resist compelling other peoples to live as we would have them. Hardly a day goes by without a newly discovered conservative calling for the overthrow of some friendly regime on the grounds that is not sufficiently democratic. When the South Africans tell us to clean our own house, we are shocked, but really, is Jesse Jackson so far wrong in his complaints? When conservative politicians routinely denounce apartheid, while sending their children to middle-class schools and living in de facto restricted neighborhoods, what are we to think, except that they are wooing the black constituency? There must be less expensive and more honorable means of buying votes than the cynical disruption of foreign policy for strictly personal and local benefit. It is particularly insulting to blacks, who are assumed—quite unfairly—to fall for such a ploy.

Our own federal system offers very practical approaches to such problems. For us as individuals, the internal affairs of South Africa are none of our business. Unlike France in the 1790's, the United States is not a revolutionary regime obliged to spread its own ideology throughout the world. Early in our history we rejected the temptation to interfere in the liberation struggle of Greece, and whatever the politicians might have said, we did not fight two world wars to make the world safe for democracy. We fought them in the belief—right or wrong—that our country was threatened. If there was any ideological motive behind our entrance into World War II, then we must bear the eternal shame of having propped up the most vicious and murderous European regime in the 20th century, the Soviet Union.

The case of abortion is both a harder and a simpler matter than social justice for a federalist to handle: harder because it is human lives that are at stake; simpler because we already know how to handle murder in this country. It is almost always a case for local jurisdiction. Sure, a murderer in some states serves five years, in others 10, and if he was unlucky enough to shoot his victim in Governor Bob Graham's Florida, he got what he had coming to him. But the same people who don't like the federal courts taking down crosses or forbidding prayer in schools think it is a good idea to have a national law on abortion, preferably a constitutional amendment. Years ago my friend John Reed, a good Christian even if he is a sociologist, set me straight on this one. We simply cannot run our own lives and reform New York City too. That job is beyond the capacity of a Hercules.

This is not a simple question of states' rights. The states can be just as tyrannical as the national government. But ours was once a *limited* government with a delicate system of checks and balances. More than the balance of powers between the three branches of the central government, the federalist distribution among the various levels of governments was an insurance against tyranny. For some time now we have elevated a number of principles above the federal arrangement: social and economic justice, equality, individual liberty—in a word, democracy. The result has been tyranny in a good cause, but tyranny nonetheless. As Americans contemplate their Constitution and its legacy, they would do well to remember that it was federalism—not democracy—that guaranteed their liberties, and that it is federalism that needs to be restored.



# WHAT THE FOUNDERS DIDN'T COUNT ON *by Clyde Wilson*

*"I assert that the people of the United States . . . have sufficient patriotism and intelligence to sit in judgment on every question which has arisen or which will arise no matter how long our government will endure."*

—William Jennings Bryan

As citizens it is fitting that we engage in acts of civic piety while celebrating the bicentennial of the federal Constitution. That celebration acknowledges that in some sense the Constitution is a success. Given the long record of the crimes, follies, and misfortunes of mankind and the perishability of free and popular governments, it is a success in which we can take great satisfaction. But as a historian and even as a conscientious citizen, I cannot put aside a disquieting question: Which Constitution am I being asked to celebrate?

Even if we do not subscribe to an "evolutionary" rendering of the Constitution (as opposed to "original intent"), we are forced to recognize that the Constitution has a history. Besides many lesser scars, it carries on its face the great and bloody gash of Civil War and Reconstruction, an unparalleled social upheaval which was in its essence a question of constitutional interpretation. Even if, carried away by the moment and the warm glow of patriotism (not something to be despised), we can put aside the complications of history, still, we are confronted with a Constitution that means different things to different people—things that are sometimes mutually exclusive.

Opposing the Bork nomination, someone recently wrote to the "Letters" column of *Time* (August 3, pp. 8-9): "His reliance on original intent precludes the notion that the Founding Fathers originally intended us to evolve as a people into something better than we were. The nation, and indeed the President's legacy, would be better served by a Justice who views the Constitution as a living part of the present rather than a relic from the past."

This passage encapsulates a vast region of mischief and misunderstanding, which includes both the proponents and the opponents of "original intent." A few obviously political points can be made: Would we be a better people by having

more abortions? by executing fewer murderers? by having fewer prayers in fewer places? by oppressing more people with reverse discrimination? But it is more interesting that the letter-writer does not reject "original intent." Indeed, logically, no one can. Rather he has supplanted the "original intent" of the written Constitution with an "original intent" of the Founding Fathers, for us to "evolve as a people into something better than we were." Those realistic republicans, the Framers, skeptical of human nature and anxious to construct a power that was both effective and limited, content with compromise, have been converted into a priestly caste who bequeathed to us a secret mission of evolving into better beings.

This appeal to the higher law is legally, logically, and historically an absurdity. It traces back not to the Founding but to transcendentalism, which was a 19th-century vulgarization, by a small but influential group of Americans, of German philosophy. Carlyle took Emerson around the London slums again and again, but he could never make him believe in the reality of the Devil. This letter-writer could be taken around history again and again but could never be convinced that the Framers did not share his aspirations. They were sensibly hopeful men and principled republicans, which is not the same as devotees of national "evolution."

This confusion of the Constitution with some sort of subjective higher law, one way or another, is nearly pervasive among both the "liberals" and the "conservatives," though it takes different forms at different times. Though a good deal more clever and circumstantial about it, the faculty of the Harvard Law School (and thus the Supreme Court for the last 40 years) present essentially the same view of the Constitution. They have read into it an intent, or at least a natural tendency, to evolve into meanings that extend the ideological program of social democracy. The Constitution evolves, but only in the direction *they* say. Although evolution is presumably by definition open-ended, it cannot evolve in directions they do not approve of, even if such an evolution is compatible with its letter and history. The Supreme Court is supposed to read the election returns, but only if the returns turn out their way. Once the Court has discovered something in the Constitution, no one else is allowed to discover something that contradicts it—a curiously limited and controlled form of evolution. Thus there is a federal right to prevent the states from *prohibiting* abortions, but there can be no federal right to prevent the states from allowing them. In

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fact, both propositions are nonsense because the real "original intent" of the Constitution (even with the 14th Amendment added) is not a matter in which there is any federal power, nor any judicial power except in the most limited sense.

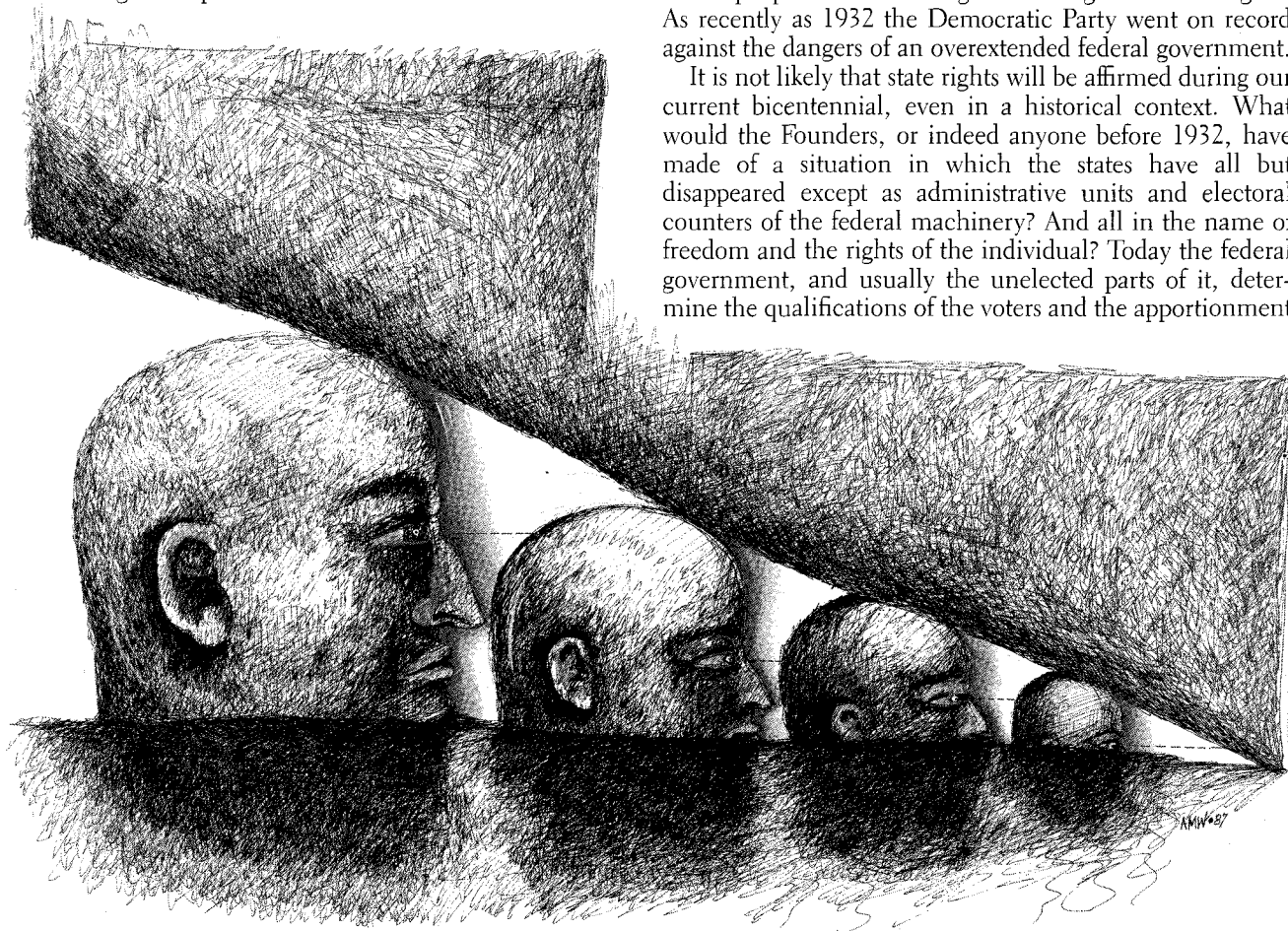
The simple truth is that the Constitution of our forefathers is not very compatible with the commercial progressivism by-way-of-federal-power of the "conservatives" and not compatible at all with the programmatic egalitarianism by-way-of-federal-power of the "liberals." Since these have become the foremost American values (at least in effective political terms), the Constitution has had to give. The question is not between "original intent" and interpretation, it is who will interpret; not whether the Constitution will give, but how much and in what direction.

So incompatible is the Constitution with programmatic egalitarianism that we have had to invent a secret history of abolitionism on the part of the Framers (which has been alluded to in every bicentennial statement I have seen, with greater zeal by "conservatives" than by "liberals"). On the flimsiest evidence, against both the letter and the substantive history of the instrument, we have postulated that the Framers intended to do away with slavery but could not quite manage it immediately. It is true that some, not all, had vaguely antislavery sentiments which in general had a lower priority than the interests of the Maine codfish industry, but no one believed—neither the Framers nor the public—that they possessed the power to abolish slavery. (It is one thing to be pleased that the 13th and 14th Amend-

ments did away with slavery three generations after the Founding; it is another to attribute false motives and anachronistic powers to the Founders.) Judging from the number of times this false history is alluded to, our self-esteem seems to be bound up with it. Perhaps we have a secret, unacknowledged fear to admit the Founders were really not entirely like us, because we would then have to throw them out completely.

Anyone who has honestly and closely studied the Founding years and the period that followed knows how large state rights loomed in the understanding of the Constitution in those days. Although there was some disagreement, some ambivalence, and even a few cases of disingenuousness among the Founders about the locus of sovereignty, there can be no doubt that most of the Founders and the subsequent two or three generations of statesmen accepted as natural and right the broadest possible idea of state rights. To most of the Founding generation, the Bill of Rights meant primarily a binding of the federal government by the states. To most people of the time, the victory of Jefferson and his friends in 1800 signified primarily the defeat of a too assertive federal power. Throughout the first half of the 19th century, the absolute central principle of the Jeffersonian Party and of the Democratic Party which came along later was state rights—the belief that the states were the truest representatives of the people's will and the best guardians of the people's liberty. And this belief was matched by democratic sentiment—the more faith one had in the people the more allegiance one gave to state rights. As recently as 1932 the Democratic Party went on record against the dangers of an overextended federal government.

It is not likely that state rights will be affirmed during our current bicentennial, even in a historical context. What would the Founders, or indeed anyone before 1932, have made of a situation in which the states have all but disappeared except as administrative units and electoral counters of the federal machinery? And all in the name of freedom and the rights of the individual? Today the federal government, and usually the unelected parts of it, determine the qualifications of the voters and the apportionment



of the legislatures of the states. It determines the curriculum and student assignments of their public schools, the rules of proceedings in their criminal courts, the speed limits on their highways, and the number of parking spaces for the handicapped in their public and private buildings. We observe the strange spectacle of legislatures *required* to pass laws according to specifications drawn up by federal judges and federal bureaucrats, which, of course, is not lawmaking at all. The states may have larger budgets and do more things than ever before, but their constitutional authority has never been lower.

In the perspective of American history or of the Founders, this is an absolutely amazing development, a revolution consummated entirely since 1960, which has had less impact on the public consciousness than the Super Bowl or Michael Jackson. (Because, I think, the predominant strain in the national character has become utilitarian—it cares only for ends and does not care how they are accomplished—the idea of principles simply doesn't exist. This may be good or bad, but it is utterly incompatible with the Constitution.)

The appeal to federally guaranteed individual rights as the chief [evolutionary] feature of the Constitution is essentially antidemocratic. It takes the Constitution away from the people, whose Constitution it is, and gives it into the keeping of an elite class that considers itself the master of mysteries that no majority, either state or federal, can tamper with. It is not the dead hand of the past (“a relic from the past”) that the advocates of an evolutionary Constitution fear. What they fear is the restraining hand of consensus, that is, of democracy.

An evolutionary Constitution implies a path of evolution, either inevitable or actively pursued. But who is to discern the path? The Supreme Court of the later 19th century thought the path was illuminated by Herbert Spencer; more recently egalitarian social democracy has been the beacon. In either case we have a guardian class of savants privileged to lead the way. The status of such men rests not on talents or public services but on claims to special revelation. In other words, they are not republican delegates of the people but priestly oracles—what the Founders would have immediately seen to be clever usurpers, and to us hardly distinguishable from the vanguard of the proletariat.

It is true that majorities can be wrong and that minorities have indefeasible rights enshrined within the spirit of the Constitution. But make no mistake, our elitist interpreters and molders of the Constitution are not talking about the rights of minorities to be defended and to defend themselves. They are talking about the rights of a minority, themselves, to rule, to be the sovereign, the ultimate authority. And this is not a theory, but a fact.

It is a curious truth that those who claim rationality, the liberals, with their permanent revolution and reliance on the supposedly objective spirit and findings of social science, always resort to the most irrational view of the Constitution—on the one hand to a mystical and disembodied appeal beyond the letter, and on the other to the most petty and deceitful manipulations of the plain sense. One of the most obvious results of this is to remove the Constitution from the people and have it perform as a cover

for elitism.

But in fact, the Constitution, properly considered, does not give any rights at all. The most essential point of a written constitution is that it is a limitation of government. The people establish institutions and give up to them certain powers, and no more. The government is not presumed to give the people their rights; and indeed the Bill of Rights is cast in a negative form: “The Congress shall make no law . . .” That is, our rights are not a grant from the federal government, and the chief duty of the federal government is to refrain from interfering with them and leave to our real communities their day-to-day definition and application. By this analysis, all that the 14th Amendment “intended” was to make the freed men citizens.

There is a certain liberal spirit, genuinely American and legitimately derived from Jefferson, which says that the earth belongs to the living generation, which must be free to make its own arrangements. But our current evolutionists represent the exact opposite of this spirit—they represent not a forthright amendment by popular consent (which can be completely compatible with the spirit of traditions and institutions) but an essentially rigid and disguised manipulation of the existing Constitution.

I have said that the appeal over the Constitution to the higher law is pervasive. For example, I have before me a *Reader's Digest* (Sept. 1987) containing the reflections of the ex-Chief Justice Burger on how our Constitution should be viewed and celebrated. It is impossible to imagine anything more “mainstream.” I set aside the silliness of the title, “The Birth of a True Nation.” (Was the United States an “untrue” nation before the Constitution?) I quote the blurb, which is not the language of Burger but is a not-unfair representation of his sentiments expressed on this and other occasions: “Two centuries ago in Philadelphia, one of the most extraordinary events in all human history occurred, and America—and the world—were thereby transformed.”

The framing of the Constitution was a remarkable event, but I will have to reflect a little on the invention of the wheel and the appearance of Jesus before conceding “one of the most extraordinary events in all human history.” Further, the Constitution was not a unique event but a part of a series of events which ought to be understood not as “a miracle at Philadelphia” (to quote the title of a popular work—one does not know whether the pseudo-religion or the pseudo-history is more odious), but rather as a realistic human achievement. Every clause of the *Digest's* statement is, in fact, either a falsehood or a gross exaggeration.

America was not transformed *by* the Constitution, except in a limited sense that a new governmental machinery was launched at the highest level. It remained the same society, essentially, as it had the year before. The Constitution did not create republicanism, which had already been created by the people of the States as the first step in the Revolution. It did not create the idea of the written constitution, which also had already been done by the states, which is why John Adams wrote his *A Defence of the Constitutions of the United States*.

But we have here not only America transformed but also the world! Now it is true that the Founders sometimes appealed to Mankind. However, they did not deal in

emotions, ideologies, and fantasies, but principles. They had a modest hope that by the successful operation of republican principles they might provide an example and inspiration for other peoples. Nothing could have been further from them than the spirit of making the world "safe for democracy." If someone had blathered "global democracy"—the official rhetoric of the chosen intellectuals of the Reagan administration—to General Washington, he would have reached for his sword. (Unfortunately, aside from rhetoric, the actual practice of the administration in foreign policy is in the hands of the same stuffed shirts who have "managed" the State Department since William Jennings Bryan resigned in 1915.) "Global democracy," in specific historical terms, goes back to the 1930's, when it was created as a mélange of Wilsonism and Soviet popular front propaganda. Given the propensity of American governments for dropping high explosives on the "enemies of democracy," such propaganda can do nothing in the 1980's but make every intelligent foreigner feel uneasy and render prudent discussion of the national interest nearly impossible. In the past 50 years, a great achievement in the founding of government for Americans becomes a cover for the dreams of "conservative" politicians and intellectuals for world transformation.

I am less offended by the factual license of the ex-Chief Justice's blurb than I am by its spirit. The *tone* is all wrong, for a bicentennial statement. It smacks of a spoiled child congratulating himself on Daddy's riches. The Framers, I believe, would not want to be worshiped as workers of a miracle. What they would want is the "decent respect" of sensible men for the hard-won achievements of their fathers.

The glorification of the Framers as demigods is a form of mystification that naturally lends itself to elitist rule. If the Constitution is a miracle, then it has to be treated as a holy object and handled only by the priests, not by the common run of humanity. To treat the Philadelphia Convention as a gathering of demigods is worse than foolish and undemocratic; so far it prevents any real appreciation of their achievement.

The members of the Convention, the Framers, were an able lot; some were great. Yet, in the final analysis, they were not omnipotent or omniscient but merely the delegates of the states. Some very able men who were selected by the states refused to go, either because they had more pressing business or were suspicious of the proceedings. Others were quite desultory in attendance, and several of the best men there refused to sign the finished product.

Nor did the Framers establish or proclaim a new Constitution, something they had no authority to do. What they did was draw up a convincing and appealing proposal—convincing and appealing because it tended to meet the occasion and to anticipate the future—a proposal that, after a considerable amount of explanation and qualification and amendments promised, was approved eventually by an effective majority of the people in each of the states—that is, by the people of the United States as already defined by existing political communities. Those who ratified the Constitution are its real Founders (as opposed to its Framers). It is wrong, therefore, to cite the debates in Philadelphia as definitive of "original intent," or as useful and

illuminating as they may be in a subsidiary sense. It is the powers that ratified it that determine, in the final analysis, what the "intention" of the Constitution is. Fortunately, to declare this is merely to declare the validity of democracy and of federalism.

How far we fall short of their achievement. In truth, in the Framers' Constitution, one of the things they took for granted (that we have lost) was an adequate supply of intelligence and honor. Reflect on that magical period in the history of self-government during the last decade when we had Gerald Ford for President, Nelson Rockefeller for Vice President, Warren Burger for Chief Justice, and Tip O'Neill for Speaker. At the time of the Framers the justices of the peace of any small county in Virginia or the selectmen of any town in Connecticut could have mustered more intelligence (I leave aside less measurable virtues) than the whole of the government today.

By intelligence I mean learning, wisdom, foresight, digested experience, detachment, ethics. Not shrewdness in self-promotion, conceit, visionary schemes, and vague good intentions. The Founding Fathers did not anticipate the ravages of the two-party system and its ability to deter the best from public life and foist vocal mediocrities on the public. The Constitution presupposed an inexhaustible supply of able and honorable and *independent* public men (whose ambitions needed to be watched). Almost all of our leaders are now the creatures of political parties (what percentage of the people believe the Democrats and Republicans are part of the Constitution?), which means that ipso facto they are more adept at winning office than at filling them, at manipulation and self-promotion than at statesmanship.

The replacement of the independent gentleman by the professional politician beginning in the 19th century, a reflection of changes in society and of the capacity of clever men to manipulate even wisely constructed institutions to their advantage, provided as serious a distortion of the Constitution as did the concomitant rise of lawyers. It would astound our politicians today to learn that at the time of the Founders and even long after, people held public office for the honor and that in most cases, rather than filling their own snouts at the public trough (except for a few securities speculators), they actually made a sacrifice of their private interests to serve in public office. The Constitution presupposed an aristocratic rather than a bourgeois class of office holders and aspirants, members of Congress, and Presidential Electors, who would always be capable of independent judgment. That is, the operation of the Constitution rested in part on something that has ceased to exist. The essence of republican government was that the will of the people prevailed but that it was formulated by able and independent delegates. When we say the will of the people, we have to avoid the mystical and high-flying references to something strongly akin to the General Will, which we all know is not the will of the people but the will of the vanguard of the proletariat on behalf of the people—what the people would want if they were as smart as their masters. This too easily merges over into "all mankind," so that everyone in the world becomes by extension an American citizen—something which if taken too literally constitutes a grave threat both to the United States and

mankind. The will of the people under the Constitution can only mean the deliberate sense of the political communities, that is the states, that make up the United States, expressed through the republican mechanisms that are established. This suggests that judicial review must be relegated to a subsidiary role.

Original intent, properly speaking, is a legal and not a constitutional idea. The original intent of a piece of legislation may be juridically determined by reference to its legislative history (though given the trickery and evasiveness of recent Congresses this is not as simple as it might be). However, "original intent" of the Constitution is not similarly determinable because the intent was given to the Constitution by the people who ratified it. An appeal to the Philadelphia convention, known chiefly through the partial notes of Madison, is not strictly analogous to an appeal to legislative history. The Constitution can be finally interpreted only historically, not juridically. It is also important to note that the "original intent" of a particular provision of the Constitution and the "original intent" of the Constitution in the large sense are different questions.

I have often heard members of Congress and other public officers answer a constitutional question with the quip that they are not constitutional lawyers. Nonsense! Members of Congress, the President, and more importantly, the people and officials of the states have just as much standing in interpreting the Constitution as any panel of lawyers or law professors, whether or not the latter have yet been appointed to the federal bench. The Founders never intended that the high *political* questions of constitutional interpretation would be at the mercy of lawyers' tricks.

The Federalist justices of the early 19th century—Marshall, Story, etc.—were legalists and devotees of the British common law. In one of the most misguided feats in American history, they infused judicial review into the constitutional fabric, believing they were providing a check to unruly popular passions and lending stability to the institutions of self-government. But while they did inject a type of stability that was useful in the progressive commercial sense, the law had a pragmatic and centralizing tendency that carried the emphasis away from the historical rights of the states and from the consent of the people. It is not difficult to understand why Jefferson feared the judiciary as the greatest of all enemies of republican government.

There is a piece of erroneous folklore, again dating to 19th century distortions of the Founding, that the Constitution is in the special keeping of lawyers. In fact relatively few of the Framers were practicing lawyers. Primarily they occupied their time as owners of plantations or other large estates or as merchants (that is, not counter-jumpers but traders on a large scale). They were also clergymen and educators, among other represented professions. It is true that a good many were trained in law. Law was considered a useful study which enhanced one's ability to manage one's own interests and participate in public life because it was a storehouse of English traditions of order and liberty. However, it was not considered, except by a few of the Framers who were not the most trustworthy, that a decent man would devote his primary attention to the daily practice of law.

The Founders recognized no aristocracies except those of

talent, service, and social weight. They would regard the Constitution today as the tools of an aristocracy of federal judges, drawn from a class of lawyers and law professors whose study is not of noble traditions of liberty and order but of the defense of large vested interests, whether of big business or the established left-wing causes of the New Class. It would be difficult to imagine any group, taken as a group, more dissimilar to the great landowners and republican gentlemen of the Founding than the choice legal scholars of late-20th-century America. The former were representatives of their communities and the bearers of wisdom and vision. The latter are the representatives of vested interests and of arcane manipulations.

We have here more than the elitist tendencies of 20th-century liberalism or "guardian democracy." We are going to have to go back a lot further than the Warren Court or the New Deal to remedy the ill. An evolutionary captivity of the Constitution was inevitable once the Constitution was given over largely into the hands of lawyers and treated primarily as a legal document, the understanding of which was to rest on the reasonings of judges.

This was a major mistake that the Framers, for the most part, did not expect. The Constitution was not intended to be, except in a subsidiary sense, a legal document. It was not expected that it would be interpreted by lawyers (people who argue cases for pay) much less by law professors (people who teach others how to argue for pay). The Constitution is a political document. Lawyers and judges are qualified to deal with legal matters. Study of the law *per se*, or pursuance of legal procedures *per se*, will never yield an accurate or lasting interpretation of the Constitution in the large sense. Justice O'Connor recently observed that every Supreme Court decision becomes, at the hands of clever lawyers, raw material for a hundred new cases.

This would be no great problem if we were merely dealing with *legal* questions brought on by the complications of modern society. But through the 14th Amendment and the usurpations of all three branches of the federal government, every conceivable legal question has also been made into a *constitutional* question. And even if this process yields a workable rendering of particular clauses of the Constitution, it should not be allowed cumulatively to determine the meaning of the Constitution itself.

We know that the Constitution has changed and continues to do so. If we look into what Constitution deserves our respect, we find two current views. One view, put forth by recent Supreme Courts and their defenders, says that the Constitution is an evolutionary document whose great virtue lies in its adaptability. According to this, it follows that it is the right or even the duty of the Supreme Court from time to time to bring the Constitution "up to date."

We can hardly deny that the Constitution has changed and evolved. It has a history. However, from the observation that the Constitution must be viewed historically, it does not necessarily follow that the Supreme Court should be the arbiter of that change. In fact, this would not have been accepted by the main body of Founders.

The other view of the Constitution current today is that we are bound by its "intent" unless we want to amend it in the proper way. The Founders, at least that majority who were not over-involved in a specific agenda, would not have

demurred from this proposition. But is it not obviously true that *the intent of the Constitution is a historical question*? That is to say, questions of "original intent" are most properly answered, not by legal reasoning and legal tradition, nor by abstract speculation on democratic philosophy or individual "rights," but by reference to the historical record.

In emphasizing the historical record there are two things I am not saying. I am not suggesting, in the manner of Charles Beard, that there is some secret dirty story to be ferreted out by historians. Nor am I saying that only professional historians can be allowed to put the Constitution in context, for any intelligent person may make a valid historical observation.

If we do not rely on legal interpretation to discern the intent of the Constitution nor on the specialist knowledge of historians nor on philosophical speculation (however relevant any of these may be in a subordinate sense), what do we rely on? We rely on history, and history, if it is not a specialist's but a people's history, is exactly what we mean by tradition—a widely shared understanding handed down from generation to generation.

A people's history may well embody some mythological elements (like the Founders' abolitionism) and some evolutionary developments (like reinterpretation of some basic points in the Civil War) because popular traditions are never precisely accurate in the specialist's sense. But after all, the Constitution rests upon the consent of the people. And it is therefore, in the final analysis, the people who have a right to determine its intent. If we argue that this is a perilous or unworkable doctrine, then we are merely declaring that democracy and federalism are unacceptable.

Of course, if we accept this proposition, our problems are only beginning (I can hear the cries of "simplistic!"), for we

are still faced with the task of translating the people's understanding, which is a tacit thing, into the established mechanisms of government. This would seem to require the services of a statesman who, in Andrew Lytle's definition, has the mission of clarifying for a given people their alternatives. Since we have no statesmen, then perhaps the best we can do is get the best judges we can find and trust them. This, indeed, has been the position of most of those who have thought of themselves as conservatives through this century, though it cannot be considered a resoundingly successful strategy.

The defenders of "original intent" argue with ability and earnestness and morality and sense. But the Constitution they defend is not the federal republican instrument ratified in 1787-1788. It is the one invented and refounded in the middle of the 19th century by democratic nationalists to accompany and foster the development of a commercial republic, a Constitution under which lawyers formed an aristocracy, an impulse which Tocqueville observed at work in its early stages. As the world goes, that Constitution, compared to the one invented by the Supreme Court in the middle of the 20th century, will serve us just fine if (a big "if") we can get it back. Unlike our current model, it did not violate the essential principles of republicanism and federalism.

I am inclined to think that the Framers, men of another age, would be profoundly uncomfortable with the state of our society today. But, being creative realists, and observing the ill fit between the Constitution and our society and the misuses to which the Constitution has been put, they might well conclude that we ought to follow their example and make a new Constitution, more in keeping with our aspirations, even though they would doubt that we had the wisdom and virtue to build as well as they.

## A DIKE TO FENCE OUT THE FLOOD

by M.E. Bradford

### *The Ratification of the Constitution in Massachusetts*

When in September of 1787 the new instrument of government proposed by the Great Convention went out from Philadelphia to be received and considered by the several commonwealths connected through the old Articles of Confederation, those fraternally affiliated societies saw the document delivered to them through the Continental Congress according to their own needs and purposes—out of their distinctive histories and established political dispositions. In other words, working from their respective myths of themselves as Americans of a special kind, as Federalists or Anti-Federalists, the spokesmen of these societies saw in the prospect of a more perfect Union implications

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very dissimilar from those discovered by like-minded individuals—persons agreed with them in supporting or opposing the Constitution in other states. Amid the variety of these responses, that of Massachusetts, in *both its Federalism and Anti-Federalism*, is distinctive in several respects. Moreover, what was observed concerning the Constitution in the state ratification convention which began in Boston on January 9, 1788, was as detailed, as representative of the essentially local politics which produced it, and as thought-provoking as any record of deliberations at this level generated by the great process of lawgiving—of Constitution-making—which has survived to us from those momentous times: a copious and inclusive proceeding, the outcome of which was in doubt almost to the moment of its decision in favor of a revision of the national bond.

It is possible to take the text of the Massachusetts ratification and read it as a completed action, a formal structure with complication, peripeteia, and dramatic resolution—in other words, as a literary whole. And by text I mean here the 1856 edition of *Debates and Proceedings in*

the *Convention of the Commonwealth of Massachusetts. Held in the Year of 1788, and Which Finally Ratified the Constitution of the United States*, which was printed in Boston according to the will of the state legislature and by William White, Printer to the Commonwealth. I have, thanks to friends in New England, the pleasure of owning a copy of this unusual and uniquely valuable book. From a distant and Southern perspective, I have found the versions of the ratification story contained in it to be of special interest to the close student of the regional origins of American politics: a window on the sources of our persistent and ultimately admirable national variety. But to understand the action preserved in its pages, the distinctive New England coloring of the event recorded there, it is a necessary predicate for other exegeses that we first reconstruct the milieu in which it occurred, reassemble the context of circumstance within which it was played out, and the universe of discourse in the language of which it is preserved for our examination.

There is available a substantial body of commentary accounting for the details and the dynamic of the Massachusetts convention itself and of the history antecedent to its gathering in the close quarters of Mr. Moorehead's Meeting House on Milk Street—especially the growing discontent which spread across Massachusetts during the summer and fall of 1786 and then exploded in December of that year in the insurrection which we now call Shays' Rebellion.

What we discover, first of all, from a familiarity with the scholarship, is that the community of the Saints had its own ideas concerning what the new Constitution would mean to the children of the Covenant, what might be said against it or in its behalf. And this version, I shall explain, is in important ways unlike the Constitution spoken of in the states to the south and west of New England—even though the words approved are the same. Part of the reason for this uniqueness is, to be sure, that Shays' Rebellion went on in Massachusetts, ending only in February of 1787 at Peterham and Sheffield. Another essentially local influence on the politics of ratification was Massachusetts' exceptional approach to the retirement of state debt—and to the failure of its citizens to pay their taxes levied for that purpose: *a moral and political attitude*, rooted in its Calvinist origins. But in the end even the disturbance of the courts and taxpayers' revolt acquires much of its resonance because it occurred in the Citadel of the Elect, the Protestant Zion—among a people called out to the special and collective service of God and to the building of His Kingdom in the West, that righteous New Jerusalem which the prophets had foretold. To be in debt was to be under God's judgment, with no sign of special favor—to be divested of a sacred patrimony—which was a situation the Saints could not endure.

The best way to reconstruct and recover the Massachusetts view of the purpose and value of the Constitution is by following seriatim its operations—its unfolding—in that state's ratifying convention: by such sequential analysis, and by a close attention to the special Massachusetts objections to what the 55 members of the Great Convention produced. Leaving aside for the moment the direct influence of Puritan origins, the story begins almost a year before the



Framers gathered in Philadelphia and exhibits as its central core, its principle of action, the influence of a characteristic New England virtue carried so far into the extreme that it became a vice—a pattern which I understand has had some influence over the history of the region. The virtue of which I speak is frugality. After independence had been achieved and the inhabitants of the old Bay Colony had become accustomed to life under their 1780 Constitution, they began (as was appropriate for the children of the Puritan Fathers) to regard the massive proportions of their state debt with embarrassment or even guilt and to look about for ways of lifting this badge of perfidy from their collective backs. Other commonwealths suspended payment on foreign obligations or prepared to satisfy creditors with land or a relaxed and protracted schedule of repayments. But not Massachusetts. The General Court laid on a heavy tax (as opposed to impost or excise charged against trade) which fell in particular on the rural and Western portions of the state, on farmers and other holders of real property. All of this occurred in the midst of an agricultural depression. In consequence, the courts of common pleas were filled with suits against landholders whose property would be sold because they made so little profit from it. Compounding these delinquencies was a shortage of specie in circulation, which drove down the price of the farmer's produce and the value of his acres. And that is to say nothing of the expense of litigation if brought to the bar of justice, or of the danger of being imprisoned for debt. The upshot of all of this distress was a cry of outrage which poured in toward Boston from every corner of the state, except for a few commercial communities, fishing towns, or seaports—a cry which began in the summer of 1786 with the calling of local protest conventions gathered to petition the General Court for relief and which had as its final response the outbreak of open revolution against the legal authority of the state of Massachusetts.

The traditional view of Shays' Rebellion in relation to the

approval of the Constitution in Massachusetts is that it amounted to the proximate cause of that decision. In the last 50 years alternative explanations of these events and their connection have been advanced; but once refined with observations on the link between social unrest and both Anti-Federalism and Federalism, the traditional explanation now seems thoroughly vindicated. New Englanders had belonged to a culture turned inward on itself, from the failure of the "Good Old Cause" to the beginnings of the "errand into the wilderness." The Revolution broke some of this down. They had been forced to send to Virginia for help when General Gage occupied their metropolis. Shays' Rebellion finished their turning toward the business of the new republic, where as inheritors of something valuable they might once again have a role to play and an example to set. It took 50 years for Massachusetts Federalists to get over their fear of marching feet—if indeed they ever have. Yet there had been anxieties and complaints about democratic excesses in the backcountry and the Berkshires even before the infant republics had, together, declared their independence in 1776. And a reaction to these excesses gathered into something like a political party before the end of the Revolutionary War in 1783. A leader of this party, James Bowdoin, was governor of Massachusetts when Shays' Rebellion broke out. He and his friends were responsible for restoring government in those Massachusetts communities where anarchy had usurped its place.

By 1786 Federalist sentiment was openly antidemocratic in its Massachusetts variety. The redoubtable Theodore Sedgwick, United States Senator and Speaker of the House of the United States House of Representatives, wrote to Rufus King, as they contemplated the spectacle of popular uprising against the people's government: "Every man of observation is convinced that the end of government security cannot be attained by the exercise of principles founded on democratic equality. A war is now levied on the virtue, property and distinctions in the community, and however there may be an appearance of a temporary cessation of hostilities, yet the flame will again and again break out." Fisher Ames, while on the floor of the Massachusetts ratification convention itself, spoke to the same effect as his friend Sedgwick (but more colorfully) when he declared, "A democracy is a volcano, which conceals the fiery materials of its own destruction. These will produce an eruption, and carry desolation in their way."

Ames was quietly but ably supported by the Reverend Thomas Thacher, who warned the spokesmen for popular resentment to remember the connection between "licentiousness" and tyranny; who spoke of disturbances similar to Shays' Rebellion in other American states; and who insisted that "demagogues, in all free governments, have at first held out an idea of extreme liberty and have seized on the rights of the people under the mask of patriotism." Federalists rang the changes on one important theme: that "faction and enthusiasm are the instruments by which popular governments are destroyed." Unreasonable expectations had brought on "an anarchy, and that leads to tyranny." On the other hand, common enemies and a concern for the "common interest" foster liberty. The Constitution was a way of preserving a known felicity, not a means of achieving a new one. If everyone at the convention recognized that

the objections of the Anti-Federalists to the document would probably be raised against any replacement for it that would be approved by a convention of the states, how could they continue to resist the imperative to ratify?: "Do they expect one which will not annul the Confederation, or that the persons and properties of the people shall not be included in the compact, and that we shall hear no more about armies and taxes?" Anti-Federalists might complain that Ames and his friends were fostering a "backlash" reaction to popular unrest, that they encouraged the people to "run mad with loyalty." But the Massachusetts tradition of ordered liberty was ever stronger than anger with lawyers and speculators in public debt. The dead voted yes on the Constitution—and were powerful enough to carry the day.

Shaysites, who were usually less radical than their opponents made them out to be and who wanted chiefly, for all their troublesome noise, no more than tax relief, lower legal fees, and a better circulation of money, appear in Federalist literature as serious "levelers" and outright egalitarians. There is a little evidence to support such a reading of Rhode Island Anti-Federalism, of the mob which interrupted a session of the New Hampshire legislature in September in 1786, and of the extreme radicals who wished to move the state capital from Boston and marched to Springfield to prevent the opening of the state courts in January of 1787: a law which proposed that "at the end of thirteen years . . . there be a general abolition of debts, and an equal distribution of property"; talk at Exeter of "holding all things in common"; a report of the opinion of a Shaysite that, as all the property of the nation had been defended by all the people, it ought therefore "to be the common property of all"—with anyone who objected to this creed "to be swept from the face of the earth." Several members of the Massachusetts ratification convention expressed a concern that the rights of the people might not be properly protected by the new Constitution. Others seemed to fear that the new fundamental law might cancel securities provided for in Massachusetts' own Bill of Rights. Federalists responded with clear distinctions concerning the roles of state and general government. Governor Bowdoin is most explicit:

With regard to rights, the whole Constitution is a declaration of rights, which primarily and principally respect the general government intended to be formed by it. The rights of particular States and private citizens not being the object or subject of the Constitution, they are only incidentally mentioned.

Colonel Joseph Varnum agreed that Congress had "no right to alter the internal regulations of a State." He was supported by the learned Theophilus Parsons, who "demonstrated the impracticability of forming a bill, in a national constitution, for securing individual right," and by the durable Sedgwick, who wrote to a friend, "Had the national government undertaken to guaranty the several rights of citizenship contained in their [the states'] declaratory bills, it would have given a right of interference which would naturally tend to check, circumscribe, and finally annihilate all state power." Joining in this chorus is, unexpectedly, Samuel Adams, first of the Sons of Liberty

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and prospective spokesman for the Anti-Federalist cause—until his son dies, his supporters in Boston turn Federalist, and John Hancock decides to be a hero *one time more*. Speaking of proposed amendments, he affirms the one which provides “that it be explicitly declared that all powers not expressly delegated to Congress are reserved to the several states, to be by them exercised.” Says Adams, “This appears to my mind to be a summary of the bill of rights.” There were, of course, stubborn radicals who remained unsatisfied with the promise of federalism, part of a population filled with an “inordinate self-confidence” in “their ability to pass upon the most abstruse questions of government.” The Constitution would have been refused in Virginia, New York, and elsewhere if the Massachusetts Anti-Federalists had, out of their resentment of Federalist leaders (of wealth, education, lawyers) and the rigorous punitive aftermath of Shays’ Rebellion, prevented its approval in their state. Probably they could have been successful if their natural leadership had been elected to serve in the convention. But Gerry and Warren and Winthrop lived in townships where the Constitution was admired and were thus denied a seat. And other Anti-Federalists kept quiet, or did not even bother to stand for election. From the first, what worked most against the Federalist cause (apart from “the apparently vindictive way in which the [Bowdoin] government in Boston had disfranchised and prosecuted the Shaysites after their surrender”) had been Massachusetts’ fierce insularity; a powerful spirit of localism; the advantage belonging to well-tested “manners,” modes, and orders; the general American fear of remote and hostile authorities compounded to the third power by an attendant pride in being part of a “chosen” people—who even lived longer than citizens of other American regions, so wholesome was their place of habitation. And, with that group pride, presuming a common patrimony and blood, a corporate hostility to contamination working inward from the parameters of Zion, to a dilution or “thinning out” of the Puritan substance by reason of being “unequally yoked together” with assorted godless heathen. Consolidation, in the opinion of Benjamin Randall, “would introduce manners among us which would set us at continual variance.” Worse than “the pirates of Algiers” or “the haughty Spaniard” were the wicked Southerners: “We shall suffer from joining with them.” Or, what is worse, “We shall be slaves to the Southern states.” General William Heath, in reaction to this evidence of an exclusive spirit, asks his neighbors, “Shall we refuse to eat and drink with those who do not think and act as we do?” To the proposition that “the interests of the States are too dissimilar for a Union,” Federalists say little more than that “the members of the Southern States, like ourselves, have *their* prejudices.” At times the complaint is aimed at the luxury of life in the South, where two days’ work stands in the place of six in Essex County. In other circumstances there are objections of Negro slavery, both as a violation of essential human liberty and as a flight from the life of industry. General Samuel Thompson thunders, “If the Southern states will not give up slavery, we should not unite with them.” To which line of thought Caleb Strong replies, “The southern States have their inconveniences; none but negroes can work there.” Strong reminds the Massachusetts delegates of

the superiority of the New England “way.” And if slavery will not do for a danger, how about Popery and the Inquisition? That complaining of one violation of essential human liberties while recommending another kind of repression is, of course, contradictory. Yet it is also in keeping with an essential paradox of Massachusetts history and reduces natural grumbling against two-thirds of the slaves being counted in the political census of states and districts to the level of a mere irritant, brought on by the unwholesome situation of those folk “down there.” Yet even with sectionalism under control, Massachusetts Federalists were not ready for a vote; they therefore kept the conversation going, even though by continuing they ran a risk of sharpening the most serious of Anti-Federalist fears—that they will collect money “by the point of the sword”—“heavy direct taxes” of the kind which had spawned Shays’ Rebellion in the first place.

Because they had such a numerical advantage when the convention first assembled (as many as 48 votes), Anti-Federalists set the tone of the meeting. The business of that assembly was, to be sure, not so much disinterested deliberation as it was to hear what everyone knew would be a vigorous case put against the Constitution and then see what kind of circumstantial argument might issue from its friends and champions. The convention worked through the Constitution and stopped for discussion only as objections were voiced. Its delays bought time for the Federalists, who would have been defeated in any division of the house in early January, but did not guarantee their success at a later date. Despite delays, the Anti-Federalists had a great strategic advantage in that they spoke not for the Articles of Confederation but for the integrity of Massachusetts, the state’s sense of itself, “since our fathers dug clams at Plymouth,” embodied in much of the dialogue between critics and supporters of the Constitution. The task of the Federalists was to persuade those less-than-certain delegates that the best way to save the Commonwealth they all professed to love was by accepting, on balance, a Constitution all knew to be imperfect. Federalists sometimes made a normative argument for Union *per se*, but not forcefully for this particular version of Union. It was only “as good a Constitution of government as the people would bear.”

Finally it became obvious to James Bowdoin, Rufus King, Nathaniel Gorham, and Theophilus Parsons, who had more or less organized the Federalist forces, that some concession to Anti-Federalist objections would have to be made—a concession in the form of recommended amendments. And Governor Hancock (elected president of the convention but waiting at home—with the excuse of poor health—to see which way the wind blew) brought in to support that concession as a sufficient protection for self-government in Massachusetts. It appears that a delegation of Federalists went to see the governor with this rhetorical package, offering him the opportunity to lead them forward toward what inevitably was their future while continuing to honor the history, the identity of his people: a chance to be the central player in a melodrama.

The Federalists would provide what Gouverneur Morris spoke of as “loaves and fishes”—a miracle of persuasion to bring around popular politicians—as part of the arrangement; they were (reported Rufus King) obliged to promise

Hancock no opposition to his reelection and, in addition, the possibility that he might (if George Washington were unavailable) become President of the United States. Hancock appears to have become a good Federalist in no time at all. His true motives and perceptions in these rapid developments remain a mystery at the heart of the Massachusetts convention. Clearly he knew that the tradesmen and mechanics agreed with the merchants and gentry of the populous areas of the state; and he must have realized that the Articles would be revised or replaced, one way or another. Therefore, taking nine amendments authored by Parsons and King (a distillate of the most valid Anti-Federalist objections to the Constitution), Hancock, on January 31, came to the floor of the convention and moved the 20-plus votes needed to ensure ratification: moved them by reserving powers not expressly delegated; by providing one representative to every 30,000 persons; by restraining the authority of Congress to supervise elections; by outlawing direct taxes unless the impost and excise are insufficient; by forbidding favorable treatment to a particular company of merchants; by withdrawing federal judicial authority over disputes of a certain size between citizens of two different states; by providing for trial by jury in civil cases, when desired; by guaranteeing grand jury indictments as a precondition for a certain order of trials; and by strengthening the prohibition against titles of nobility.

After this surprise, Samuel Adams (with only a moment's deviation) decided to support the Constitution himself. Thereafter the convention concluded swiftly—by a vote of 187 to 168—to the great satisfaction of those Federalist managers who had done such a good job in counting the house. Writing to his old friend Washington, General Benjamin Lincoln, one of his state's most substantial citizens, observed, "Considering the great disorders which took place in the State the last winter, and considering the great influence that the spirit which then reigned has had since, and considering, also, that when we came together a very decided majority of the Convention were against adopting the Constitution, we have got through the business pretty well."

After having followed it all the way back to its colonial sources in Massachusetts politics and then forward from its opening salvos through the drama of resolution by crafty stage managers in a flamboyant *deus ex machina*, it remains for me to say something about the ethos, the special flavor of ratification in Massachusetts, of the human ingredients which brought the Commonwealth out of its jealously guarded particularity by an appeal to its own intellectual inheritance: by persuading grandsons of the Puritans that the best way to preserve their little world was by subsuming for it a place in the Union. After ratification, many of the Massachusetts Anti-Federalists promised before they left for home to urge their neighbors to give the new Constitution a fair trial. Though accustomed to having their say and to being consulted in the public business, the ordinary citizens of Zion represented by so many plain men who had in most cases come there to prevent deception through hasty ratifying were justified in feeling, once the convention was concluded, that a thorough ventilation of the issues had occurred. And with that ventilation, as the Federalists would have insisted, an even more thorough examination

of many nonissues which were injected into the debates by the spirit of excessive political distrust—a danger of which the Reverend Mr. Thacher had warned pointedly in his memorable address.

Because of Shays' Rebellion and because of the notorious sensitivity of the Massachusetts electorate, the educated and powerful men of the seacoast, the professions and commercial towns were patient in answering their Anti-Federalist adversaries when these little-known but emphatic speakers conjured up dreadful possibilities and "worst-possible-case" scenarios based upon a strange reading of the most innocuous components of the Constitution. What was the new government going to do with the 10 square miles of the federal district? What engines of war and hosts of mercenaries might be assembled there in a plot against the liberties of the people? And if General Benjamin Lincoln and Governor James Bowdoin had been hard on poor fellows who neglected to pay their tax, what would the gathered power, the standing army of a national government, do in the same cause—especially if their taxes were going to redeem at 100 cents on the dollar government notes which its friends (inside traders) had acquired at a fraction of that price? To the uninitiated, it would seem that the Massachusetts convention spent an inordinate amount of time talking about annual elections, far too much energy in worrying about how Congress might use its power to cancel the ability of Massachusetts to govern itself. And there was some excited talk about slavery and the absence of a religious test for office, issues discussed below. But seen as a whole, the proceedings of this convention, held under these trying circumstances, seem to me quite amiable, with only here and there the edges of acrimony in sight. *All* of the members of the convention are aware that they have been given a part in a momentous occasion, and they do not waste many of the theatrical opportunities provided for them on this stage of history. It is difficult to imagine a more rhetorically self-conscious assembly. Even the plainest member does his best to argue from authority, *ad vericundum*. Sometimes they even mention with surprise how well they speak. And the danger of being subjected to an apostrophe is apparent from every quarter of the house. We hear of how Mr. Thomas Dawes makes only a "short exordium" to his remarks; of how Mr. Barrell of York is "sensible" of how "little" he must appear "in the eyes of those giants in rhetoric, who have exhibited such a pompous display of declamation"; and of how the Honorable Amos Singletary is suspicious of the arts of "these lawyers, the men of learning, and moneyed men, that talk so finely, and gloss over matters so smoothly to make us poor illiterate people swallow down the pill." This sort of complaint against rhetoric is proof positive that the Anti-Federalists had a lively rhetoric of their own, a populist idiom which they used to considerable effect when not attempting to imitate and better the Federalists at their own game.

But what may surprise us most about this ratifying convention is not the rhetoric of its members but the language itself, the shifting levels of discourse, the apt allusion, the mixture of homely materials with elevated concerns and definitions, and the unmistakable personal dynamic of a society with a very well-developed sense of itself. As we would expect, adversions to the Holy Scripture

are a staple of these exchanges. But they are set alongside fresh imagery, fragments of irritation, candor, hyperbole, understatement, sarcasm, drollery, and a suggestion of assorted parables working at the back of the minds of most of the delegates who gathered that winter in Boston to decide the fate of the document made in Philadelphia during the previous summer. We have the compass to take note of only a few illustrations of this lively and indigenous speech—an idiom shared by all of those who sat within the closed and comforting circle, inside the walls of John Winthrop's "City on a Hill."

General Samuel Thompson, one of the most stubborn of the Anti-Federalists, speaks of being ready to give a good "thump" to the provision for regulating elections by Congress—a test of the kind given by country men to melons to see if they are ripe. Elsewhere the good General warns of the danger of building on a "sandy foundation" and of "swallowing a large bone for the sake of a little meat." His counterpart, the Honorable Amos Singletary, complains that the Federalists "play round the subject with their fine stories, like a fox round the trap." Mr. Benjamin Randall of Sharon, in response to the theory that the institution of slavery would end in 1808, said that the Southerners "would call us pumpkins" if they heard reports of such speculation. Captain Isaac Snow argued in behalf of ratification that the imbecility of government under the Articles had caused this country to be "held in the same light by foreign nations as a well-behaved negro in a gentleman's family." In other situations, delegates drew upon images of "clouds" rising upon the horizon, of facing the "musket of death." They referred to themselves as "plough joggers" and compared government to farming—with the proposed Constitution being like a barrier erected to keep the wild beasts out of the new ground. They traveled over the text from the first word to the last, and gave it the "thump" General Thompson promised.

Yet assuredly more important than this folk speech is the way in which the members of the Massachusetts convention drew upon the idiom of the English Bible. As did no other state ratification convention, the proceedings in Massachusetts presumed the theological doctrine that God deals collectively with the tribes and nations of men as they exist in the world—according to the operations of His covenant with them, if they have a rightful fear of the Lord. On this assumption, the Honorable Charles Turner of Scituate shortly before the final vote was taken invokes "that God, who has always in a remarkable manner, watched over us and our fathers for good, in all difficulties, dangers and distresses." His authority in this instance is what James M. Banner Jr. calls "the myth of New England exclusiveness": a set of "ideals at whose core was the conviction that the people of New England, and none more than those of Massachusetts, were somehow set apart from the nation" in their particular intimacy with the Deity. On these grounds the members of the Massachusetts convention sometimes referred to their Commonwealth as if it were another Israel—and the sayings and stories in Holy Writ material drawn from the lives of their neighbors or the neighbors of their forefathers. When Nathaniel Barrell of York compares a rush toward final judgment of the Constitution to the "driving of Jehu, very furiously," he invokes for frame of

reference an entire narrative (II Kings 9:20) of two kings of Israel and two of Judah who rule after the fall of that wicked prince, Ahab. Elsewhere, General Washington is compared to Joshua and the people of Massachusetts to Jonah swallowed up by the great Leviathan of government. One suspicious Anti-Federalist, speaking somewhat out of character, declares that he would not follow a "flock of Moseses" to the detriment of his liberty. To a contrary effect, the Reverend Isaac Backhus discoursed learnedly of I Corinthians: "Ye are bought with a price."

The new covenant is for free men. Free men might argue yea or nay about the omission of a religious test for holders of federal office. They might defend either liberty or authority with a view to the common good. And in this "Protestant" fashion they worked their way through the proposed Constitution, comparing ancient and modern times, passage with passage, after the practice of "elucidating scripture with scripture." When Mr. Jones of Bristol suggested there was not enough of the old Puritan spirit in their proceedings and proposed that the convention adjourn for a period of fasting and adoration, his colleagues did not agree with him, even though they knew that the politicians of their time "were not better now than when men after God's own heart did wickedly." But when they pulled together their final apology for the revision of government under the United States Constitution, the Federalists of Massachusetts, even more than those of Connecticut and New Hampshire, spoke of an enterprise in the language of covenant theory, postulating a regime which would preserve the Saints, with their liberties, together—or not at all.

The classic text for the corporate theory of Massachusetts Federalism is the one from which I draw the title for these remarks. It is of course the work of the brilliant Fisher Ames, much of it offered just at the close of the Massachusetts convention, on February 5, 1788. In content it is as rich in metaphor and as vibrantly colorful as any of the overheated warnings of the opponents of the Constitution:

Who is there that really loves liberty, that will not tremble for its safety, if the Federal government should be dissolved? Can liberty be safe without government?

The period of our political dissolution is approaching. Anarchy and uncertainty attend our future state; but this we know, that liberty, which is the soul of our existence, once fled, can return no more.

Ames then continues with his tropes. The Union is the "sap that nourishes the trees." Once girdled, it will moulder and "be torn down by the tempest." Massachusetts cannot secure its fisheries or its trade by itself, or defend itself alone from external enemies almost as dangerous as the anarchy within. Then the great peroration: "We talk as if there were no danger in deciding wrong. But when the inundation comes, shall we stand on dry land? The state government is a beautiful structure. It is situated, however, upon the naked beach. The Union is the dike to fence out the flood. That dike is broken and decayed, and if we do not repair it, when the next spring-tide comes, we shall be buried in one common destruction."

The images here are of powerful forces of nature which

can be restrained only by well-planned cooperation, and their application is unmistakable. The natural state is not one to be desired. Nor even the tribal state. The liberty to be found there is forever in question—if the sword-arm fail. Yet human society is so frail a shelter as to be constantly threatened by the encroachments of depravity. Earlier in the convention Ames observes that people who talk about the “liberty of nature” make a “declamation” against matter of fact. We are thus reminded not of John Locke but of Thomas Hobbes and of the repetitious misconduct of the seed of Abraham in the narrative sections of the Old Testament.

But perhaps just as eloquent as Ames’s summary of the case for ratification is the one made by Colonel Jonathan Smith of Lanesborough, who, though pointedly rustic in his delivery and self-description, is as subtle in reasoning for adoption as any of the lawyers or clergy who are active in that cause. Smith urges the anxious Anti-Federalists to consider a case where two or three of their number “had been at pains to break up a piece of rough land, and sow it with wheat.” Then he asks them to suppose further that they could not agree on how to protect the crop. Only then does he ask, “Would it not be better to put up a fence that did not please everyone’s fancy, rather than no fence at all, or keep disputing about it, until the wild beasts came in and devoured it.”

General William Heath makes a speech to that same effect, using the old parable of the rebellion of the members of the body against the whole. He does not speak of commerce or profit but of Union. What he and Smith and Ames and Parsons say is clearly the Federalist teaching on the value of Union—and a measure of how different from the Constitution adopted in Virginia and New York, North and South Carolina was the theory of government affirmed by Massachusetts when by 19 votes it ratified what the Framers had made.

What we find in the record of the ratification conventions of the South and the Middle States is an emphasis on the external objectives of government, the limits on what it attempts to achieve, and economic and military advantages of a more perfect Union. According to these constructions,

government is more a necessary evil than a positive good—or at least the government of the United States, as opposed to state and local governments. In these conventions, the regnant myths of the American self, of the national future, are very different from that of New England. The Agrarian vision of the South and the commercial dream of Philadelphia and New York did not presume that “the state and society were ‘indivisible’ or ‘co-extensive.’” From the time of the Mayflower Compact, Massachusetts could not separate the two. Southern Federalists did not fear insurrection or imagine that democracy and deference toward the natural leaders of the community were incompatible. Rights for them were an inheritance proved up in the Revolution. Neither did they emphasize the liberties which only government could guarantee—though many of them agreed with Fisher Ames that man was a social being and that his rights could not be usefully imagined in an aboriginal state. Southern Federalists promised to defend liberty by confining Federal authority to those functions explicitly assigned to its sphere. So speak James Iredell and Charles Pinckney, his cousin, General Charles Cotesworth Pinckney, and James Madison. Madison in June of 1788 defined a Constitution which prefigured his subsequent struggles about the nature of government with the sons of New England, arguing that “the powers of the general government will be exercised mostly in time of war” and “relate to external objects”; that “by enumerating [certain rights] of government it [the Constitution] implied that there were no more.” For a national government designed to transform the society which it protects he made no brief. It is an irony that the Constitution Madison did so much to create has, through the alchemy of our national history, become more like the one approved in Massachusetts than the one he hoped to establish. To understand such developments, it is necessary to see both of these alternatives in the context where they first appeared, to realize that there were other possible understandings, and to acknowledge the forces which make it likely that one view prevailed while the others sank beneath the waves, caught outside the breakwater when the inundation came.

## REVOLUTION *by Otto Scott*

Times of crisis are not distinguished by respect for rights—although, paradoxically, all revolutions claim to be mounted in the name of rights. During our War of Independence, criticism of the patriot cause was an invitation to a lynching, and Jefferson defined the Tory as “a traitor in thought, if not in deed.”

In 1773 George Rome, a Rhode Island Tory, wrote a private letter criticizing the Assembly and judiciary. The letter was discovered by the patriot party and appeared in a newspaper. Rome was arrested by the Assembly for “vile abuse” of the government. Summoned before the bar of the

house, he refused to declare whether the opinions in the letter were his own. “I do not think,” he said, “on the privilege of an Englishman, that the question is fairly stated, because I do not consider that I am called here to accuse myself.” The Assembly, indifferent to rights long admitted in England (and even in Rhode Island), found him guilty of contempt for refusing to answer and imprisoned him for the remainder of the Session. In Virginia men were put in jail on the suspicion that they might some day assist the enemy.

Years later, after the American government was secure, matters were considerably improved. Although the men of Philadelphia did not include specific “rights” in their work,

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on the grounds that, as Roger Sherman said, "It is unnecessary. The power of Congress does not extend to the Press," the fact is that they were well aware that rights exist by the permission of power.

"The framers," wrote Leonard Levy in his classic work on the Fifth Amendment, "were . . . skeptical of the values of 'Parchament barriers' against 'overbearing majorities,' as Madison put it, knowing that even an absolute constitutional prohibition, as experience had proved, dissolved in the case of an emergency or public alarm."

But if the Founders were aware of the realities of power, so were the people. They did not trust their government not to override their liberties; they wanted guarantees. Anti-Federalists, the party of skepticism, perceived that the purpose of the Philadelphia lawyers was to create a centralized government, and they feared (correctly, as history proves) that such a government would seek to extend its tentacles as far as any of its predecessors.

Even the Reverend Samuel Stillman, defending the Constitution during the ratification debate, had to admit the reality of such fears—even as he sought to allay them. "Who are the Congress?" he asked. "They are ourselves, the men of our choice." But he admitted that a Constitution alone was no sure safeguard against tyranny. Nothing could guard the people's liberties for them "unless they watch their own liberties. Nothing written in paper can do this." For at least two generations Americans were sure they could, in fact, do that. But they underestimated the nature of crises—and of revolution.

Before the Civil War it was taken for granted that states could secede from the Union. Even Lincoln, a consummate political leader and superb lawyer, did not openly argue against that widespread position. In his First Inaugural, widely hailed as conciliatory, Lincoln said there would be "no bloodshed or violence" and "no use of force" against the seceding states; even the mails would be abandoned if they were not wanted. But taxes were another matter. Lincoln would collect "the duties and imposts, but beyond what would be necessary for these objects, there will be no invasion, no use of force against or among the people anywhere." In other words, the South could secede, but the tariffs that protected New England would continue to be collected by the North. Then he sent a supply ship to Fort Sumter, where "duties and imposts" were collected for Washington, and the war was on.

In its course, Lincoln suspended the ancient right of *habeas corpus* for spies, prisoners of war, confederate sympathizers, and "anyone who interfered with the military." This left the military free to create commissions and to try civilians. This resulted, in the view of Allan Nevins, in the arrests of numerous persons "in circumstances imperiling the basic liberties long held sacred in Anglo-American tradition and law. . . . Arbitrary arrests, according to the *New York Journal of Commerce* became so numerous that a mere list would fill eighteen columns of the paper. . . . Figures range from 38,000 as a top to 13,535, which may be too low." Three hundred newspapers were suppressed. This is not to deny Lincoln's stature as a great man, sitting atop a keg of dynamite during a critical period of internal war. But it is an instance of a power struggle overriding rules.

Wars, however, have a way of preceding revolution. That lesson first emerged in frightening form in the 1780's in France, when wars bankrupted the treasury of the richest nation in Europe. Faced with the collapse of French governmental credit, Louis XVI was told by his advisors he had to raise taxes. And, since the air was heavy with the need to "reform," that forced the King to summon the Estates General—to deal only with taxes. The rest is well-known history.

First, the Commons demanded national elections and an end to the three tiers of representation. Those elections held, with radicals elected, the General Assembly demanded a new constitution, a reduction of the executive authority of the king, elimination of tax exemptions for the nobility and the clergy, and other reforms. When these were accomplished, and the king reduced to a constitutional monarch, the radicals (aided by demonstrators and a press that combined radical politics with pornography) increased their demands: new elections were held and more radicals were elected. These proceeded to confiscate the properties of the Church and the nobility and to launch trials of persons accused of "crimes against the people." Retroactive in nature, formless and frightening, these rendered the courts of France obsolete and launched the wave of terror which engulfed the king, the queen, thousands of peers, nobles, citizens, priests, nuns, children, and oldsters alike.

It is most important to note that all these horrors were not unleashed by mobs in the street but by officials seated in elected offices in a duly elected legislature. It is also noteworthy that these officials expanded their powers as the executive (in the French instance, Louis XVI) retreated from confrontation. Eventually, when the king had completely collapsed, he was put on trial, found guilty (of having been the king), and executed.

These instances are not at all remote from the American experience. The unexpected murder of Lincoln left the office of the presidency (the American equivalent of the king) occupied by a man of lesser political skill and flawed reputation. Suddenly the legislature was convulsed by a faction (the Radical Republicans) that saw an opening toward supreme power.

Those who may consider this hyperbole should remember the climate. The American nation had just concluded a massive war, during which sensitivities were blunted toward death, suffering, misery—and legalities. This was made clear by the treatment of those accused of being part of the conspiracy that martyred the President.

The seven men and one woman arrested and charged with complicity in Lincoln's murder were held, incommunicado, in the Washington Arsenal Penitentiary, in chains, in dark cells, their heads encased in leather hoods. Tried in the penitentiary grounds without being informed of their right to counsel, the men were handcuffed to a metal bar and wore hoods much of the time. Mrs. Surrat, a boarding-house keeper, was guilty mainly of having some of the men as boarders. The defendants were finally allowed counsel only after public protests, but the counselors were forced to write their briefs *as the trial proceeded* and without being able to consult their clients in private. The judges—three major generals, four brigadiers, and other officers—had no legal background whatever. Reverdy Johnson, attempting to

speak for the defense, was so insulted by the judges he withdrew from the case. Both the tribunal and the press—and Congress—sought to prove the vanquished Confederacy guilty of the plot. In the end of a proceeding managed even worse than the Soviets later exhibited, two men and Mrs. Surrat were hanged, three sentenced to life at hard labor, one to six years.

In a climate where such a trial was considered legal, the Abolitionists (renamed Radical Republicans to maintain their historic reputations) launched their campaign to have the South “reconstructed.” Led by Thaddeus Stevens, a fanatical racist in the name of antiracism, this faction sought to force President Johnson to agree.

Failing to do this by ordinary political suasion, the revolutionists (for this is what they were), enacted the Tenure in Office Bill, which forbade the President, acting as chief executive, to dismiss any officer of the executive branch whose appointment had been made with the consent of the Senate. Such a bill needed, of course, a Cabinet officer to collude with the revolution; this proved to be Secretary of War Stanton.

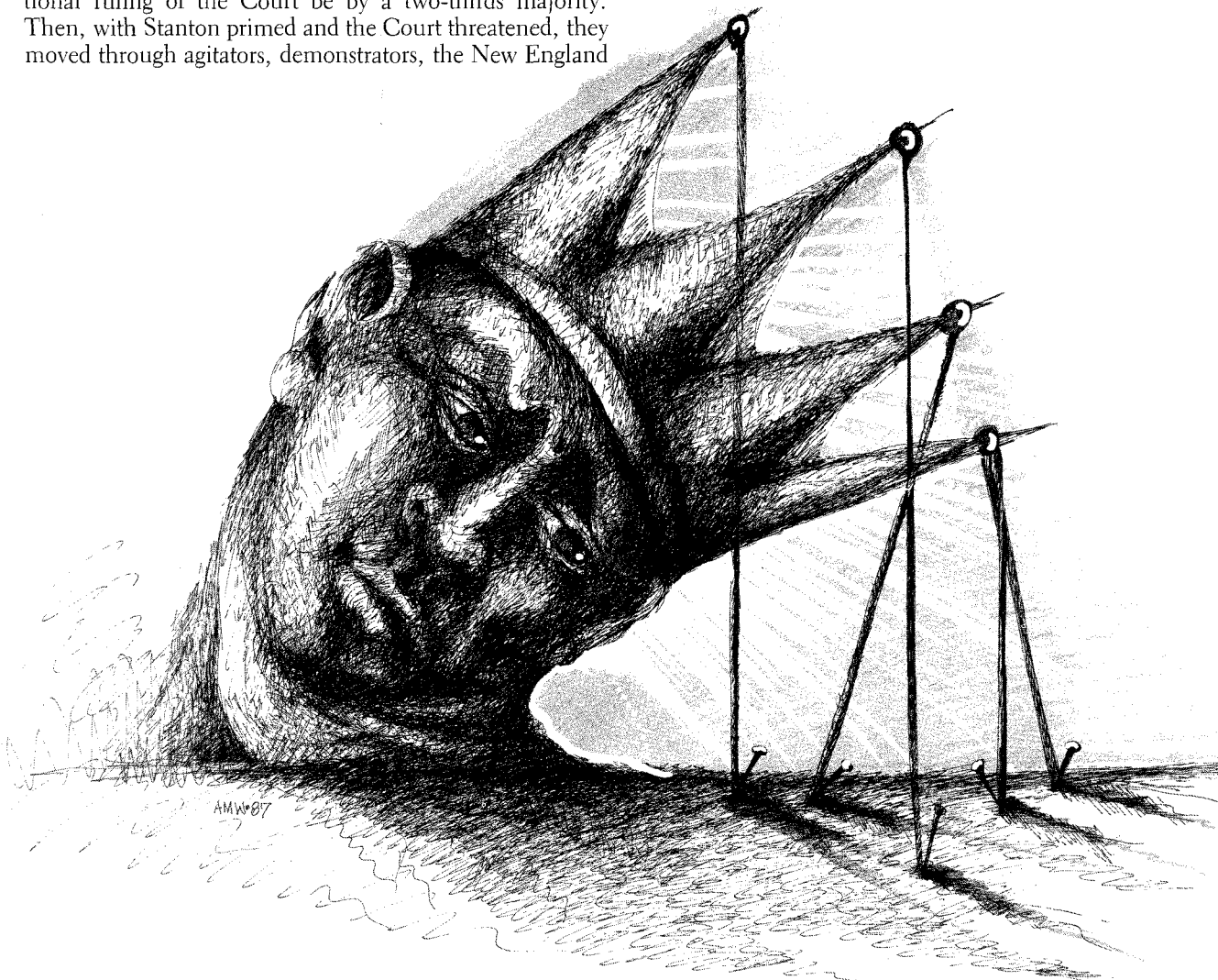
The Abolitionist-revolutionists knew, of course, that the tenure bill would go to the Supreme Court, and they enacted another bill making it mandatory that any constitutional ruling of the Court be by a two-thirds majority. Then, with Stanton primed and the Court threatened, they moved through agitators, demonstrators, the New England

and the New York press, through the Methodist Church and others, to demand reconstruction in the name of expanding constitutional rights.

In due course Johnson, as planned, discovered Stanton’s duplicity and dismissed him. Stanton appealed to the Senate, which declared the President had no authority to take such a step without its permission. Stanton then barricaded himself in the War Department, and the revolutionists proceeded to draw up a bill of particulars against the President, around which Congress voted for impeachment.

While Johnson held fast, the Senate canvassed for votes. Waverers and supporters of the President were placed under heavy pressure; detectives trailed the uncertain, seeking evidence of misdoing by which they could be pressured, bribes were offered, threats brandished.

Although hired demonstrators appeared, the mass of the people were not greatly excited. It was a press sensation, and a political one—but the average American did not seem excited. Horace Greeley, ardent for revolution, was amused at a Cooper Union meeting of those opposed to the impeachment. “They know very well,” he wrote, “that Wall Street and Fifth Avenue are not with them.” This was, in other words, a struggle among the highly placed—a struggle the average man did not understand. As Homer



observes in the *Iliad*, "The fool only believes what has happened."

In the first effort to topple an American President, the average man seemed right: It failed. But the impeachment of Andrew Johnson failed by only one vote; the President won only the right to dismiss those whom he appointed, without asking the permission of the Senate. Had he lost that right, the presidency would have been immeasurably weakened in 1867, and the Abolitionist Congress would have pressed for larger gains, greater territory.

As it was, Congress gained from the struggle. The Abolitionist program to occupy and govern the South in the name of universal rights was enacted; the Fourteenth Amendment was pushed into law in the absence of 11 states; the program for which Thaddeus Stevens, Charles Sumner, and others had argued was realized. In the process, the seeds of racial discord were sown deep, and many crops continue to be gathered.

The revolutionary tide moved to other parts of the world. Authoritarian socialism, a substitute for religion in the name of antireligion, appeared among our intellectuals and in Europe. Nietzsche carried Emerson's *Essays* with him everywhere; the Higher Law of the New England Transcendentalists reappeared as the *Übermensch*; European anarchists decided to imitate the example of the widely applauded John Brown and to kill innocent bystanders to make political points.

These cultural-political tides crested in Russia, where revolution had been bruited for at least two generations. The Social Democrats achieved legislative power in 1905, in the wake of the Russo-Japanese War, in the Duma, and in a reduction of the complete authority of the tsar. In 1917 the issue of executive authority reappeared when Russia's losses became immense. The tsar was persuaded to abdicate, and the Duma created committees to rule the nation "provisionally." The plan was to change the constitution and to hold plebiscites and elections—as the books on democracy recommend. At that juncture the German General staff, led by Ludendorff, who had become wartime dictator of Germany, intervened.

Creating subversion behind enemy lines, an honored wartime practice since before the days of Sun Tsu, appealed to Ludendorff's conspiratorial mind. Berlin had, the year before, financed the efforts of Roger Casement and others in Ireland but saw the Easter Uprising fail. Berlin had hopes that its agents inside the French Chamber of Deputies and various French newspapers—and especially in the French army, which was on the verge of mutiny—would persuade France to stop fighting.

Acting on the recommendation of Parvus (Helphand), a well-connected financier, Ludendorff decided to provide a credit of 50 million gold marks to Lenin & Co. to create a new government that would pull Russia out of the war. Lenin, according to Trotsky and others later, first used the money to buy 47 Russian newspapers, then guns, and then hired men to use the guns. His *coup* took place in October (in the new calendar, in early November) 1917, and Russia became captive to an oriental-style despotism that operated without law, without rights, and without religion.

Lenin's triumph sent a thrill of hope throughout the revolutionary ranks everywhere. The speed of his rise from

nowhere was proof that revolution can reward the most obscure. Where the French revolutionaries of the late 18th century had required three years from the first meeting of the Estates General in 1789 to the guillotines in 1791, the Russian revolution reached the dictatorship stage in only nine months after the tsar's abdication.

Equally obvious but less often noted in both the French and Russian examples is that the office of chief executive—king and tsar—was held by weaklings: men incapable of resisting heavy or dangerous pressure. In both instances, however, the revolution succeeded from *within the offices of government*, from men situated inside the legislature. Legislatures, it seems, in addition to containing "representatives" of the people, can also be seedbeds of revolution.

This overall pattern was repeated in the German revolution which, like its predecessors, proceeded in stages. First the Kaiser abdicated without a struggle. Then Germany, with no really strong executive power, governed through a Reichstag dominated by Social Democrats—as often by emergency decree as by constitutional rules. In time, disorders escalated and violence became embedded in German politics. Nazis vied with Communists to win elections over the Social Democrats. In 1933 they achieved a third of the vote, and an electoral deadlock was ended when the senile Hindenburg was persuaded to name Hitler Chancellor. From that high governmental office, legally achieved, with his party dominant in the Reichstag, in eight weeks the Nazi revolutionary and his party received complete authority over every human being and all property in Germany from the Reichstag. Once again, the revolution triumphed—from inside the government.

It is in that context that present trends inside the American government should be reviewed. As in France, Russia, Germany, and other countries, the preceding, build-up stages, spearheaded by alienated and deracinated intellectuals, took a long time—in the instance of the French, from at least 1715 to 1789; in Russia, from the 1840's to 1917; in Germany, from the 1870's to 1933. In the United States, the intellectuals turned against our government in the 1870's and 1880's, against Christian education in the period from 1890 to 1900.

During the New Deal radicals lumped Roosevelt with all other capitalist rulers and joined the national consensus only when America joined hands with Josef Stalin in the name of antidictatorship. Meanwhile, the New Deal resumed the centralization of government that had marked Woodrow Wilson's administration in World War I. In 1933, in his First Inaugural, FDR asked Congress for "wartime powers in peacetime"—and received them. His administrations were marked by single party control of both Congress and the presidency and enormous expansions of governmental authority in the name of charity, equality, and war.

But assaults on the presidency as such did not really resume until the Vietnam War. This adventure, initially undertaken by a Democratic President, John Kennedy, disordered the campaign of 1964. Expanded by President Johnson, the radical barrage, conducted through the media and complicated by a "civil rights" campaign marked by riots, murders, parades, demonstrations, and orations reminiscent of Abolitionist times, led to Johnson's decision not

to run again for office. This was accepted as an abdication, though other Presidents had made similar decisions without provoking such a description. The propaganda use of the term "abdication" introduced the idea that the presidency of the United States can be, somehow, attainment of the purple without the consent of the people (the people being defined as those who support revolutionary change).

It is former President Nixon's unhappy distinction, however, to be the first American chief executive to be forced out of office before his term expired. Hoover was covered with more invective (difficult thought that is to believe), but this merely destroyed his chances for reelection. Nixon was pilloried in the media on various grounds, beginning with his agonizingly slow retreat from Vietnam, and extending, eventually, to the fact that some members of his staff sanctioned illegal actions by their underlings. That the actions were part of the rough politics long practiced in Washington was beside the point; far more pertinent was the truth that Richard Nixon, beneath his bluster, was a weak man who would not fight. Despite all the evidence, he could not believe that his landslide election could be set aside on such specious grounds as an abortive burglary in which nothing was taken, conducted without his knowledge by overly zealous, low-ranking staffers.

For all its absurdity, the significance of Watergate is profound. Not since the Radical Republican-Abolition effort had the traditional American system been so heavily dented. Congress had overturned an election. All events, moreover, seemed to play into the hands of the radical Democrats, whose tactics overwhelmed all moderates.

Vice President Agnew, a target of harassment, was discovered to have taken bribes while governor of Maryland. Admitting guilt, he resigned. That placed Congress in position to name a new, unelected Vice President. They chose Gerald Ford, who gave his word of honor not to run for the presidency. (He later broke that oath.) Then Congress proceeded toward the impeachment of President Nixon, on grounds that he had not admitted his knowledge (after the event) of the Watergate break-in or punished those responsible.

After Nixon's resignation, Congress appointed Nelson Rockefeller Vice President. The American nation then had a President and a Vice President selected by Congress. An interregnum followed, occupied by Jimmy Carter, who proved he did not have an "inordinate fear" of Communism by retreating while it advanced.

Since 1980 Ronald Reagan has occupied the presidency. From the first his administration has been marked by reasonably conservative rhetoric, inflationary economic policies, and feeble efforts to resist Communist insurgencies in the Third World. These have been portrayed by the American media as efforts to involve us in "another Vietnam" and in Europe as saber-rattling.

Meanwhile, radical resistance against Reagan's foreign policy increased in the Democrat-controlled House of Representatives. Some wrote letters of support to Ortega; others visited and encouraged Castro; still others established ongoing contacts with the Soviets. Rep. Solarz, a self-appointed sideline Secretary of State, involved himself in the Philippines, South Korea, and everywhere that change toward a more leftist government seemed possible (with the

exception of the West Bank).

These efforts, although assisted by a transparently pro-Soviet press, did not shake Reagan's personal popularity (he was reelected with ease in 1984), though they reduced the standing of his party. This was evident when Republicans lost their precarious control of the Senate in 1986.

Then the Soviets, through channels, informed the American media that the United States was selling arms to Iran in the hope of rescuing hostages and influencing that strategic nation in the Persian Gulf. Combined with the Reagan effort to assist the anti-Communist guerrillas in Nicaragua, this caused Congress to launch an official investigation.

Although only the President is constitutionally authorized to conduct foreign affairs, and only the Senate is supposed to "advise and consent," the House of Representatives Foreign Relations Committees and Representatives themselves are now as vocal on this subject as Senators. The investigation, therefore, consists of both Senators and Representatives and has proceeded along revolutionary lines.

That is to say, testimony is first taken in private. Then, armed with witnesses' answers—elicited under threat of a contempt of Congress charge—the questions are repeated in more embarrassing terms in public, under klieg lights, before cameras.

The "witnesses," as they are euphemistically termed, are allowed to have a lawyer beside them, but the lawyer is not allowed to speak for them. They have none of the rights of criminals in court because it is a fiction of the American Congress that it does not hold trials. Therefore, the rules against hearsay evidence and the right to be confronted with one's accusers are not held to apply. If the witnesses incriminate themselves, a "Special Prosecutor" lurks to indict. If the witnesses contradict themselves (and all have been subjected to repeated interrogations over weeks and even months by various officials), they may be deemed guilty of perjury and so charged. (At least one such unfortunate is in this position and is appealing. Others are expected to fare similarly.)

While these public interrogations are underway, the Representatives and Senators make denunciatory speeches to the "witnesses," challenging their patriotism and veracity, their scruples and principles, their words and their motives. A special attorney then cross-examines the witnesses further, making his contempt for them clear to a huge TV audience—and to representatives of the media. Few men can emerge from such an ordeal without suffering fearful societal penalties, for which there is no redress.

The resemblance to revolutionary tribunals is unmistakable. When one important "witness"—Lt. Col. Oliver North—refused to answer questions on Fifth Amendment grounds, demands arose that the President order him to answer, that he be dismissed from the service. The idea that the Fifth Amendment can balk a legislator is clearly, to the present Congress, outrageous—as outrageous, one might say, as such a privilege invoked by a Tory appeared to the Assembly of Rhode Island on the eve of the War of Independence; as outrageous as it would have appeared to a Union Army Commission when confronted by a suspected "Copperhead" in 1863; as outrageous as criticism of Woodrow Wilson's wartime policies in late 1917 (this earned

Eugene Debs a penitentiary sentence); as outrageous as defiance of FDR's policies in 1940 (which earned a trial for sedition for the Trotskyites).

Our Congress, moreover, as well as our courts and prosecutors, has diminished Fifth Amendment rights in remarkable fashion. First, any witness or defendant claiming the right to remain silent under the Fifth can give only his name. An answer to any other question—no matter how insulting—is held to have relinquished his right. Then another weapon was created: immunity. This ensures that those who admit murder or any other crime can go free, if they implicate the persons prosecutors really want to convict. Now Congress has emerged with still another refinement: “limited immunity.” This means that a witness must answer even incriminating questions and is free from prosecution *unless the prosecutors can find corroboration apart from his answers*. All this adds up to the condition wherein our government is now determined to select whom it chooses to imprison and will go to extraordinary lengths to twist the Constitution to achieve its purpose. A “parchment barrier” indeed. Mr. Madison knew the nature of governments.

All these examples and arguments, precedents and observations are cited to prove that we are in a crisis—a condition, as usual, hidden from the popular mind. We are, in fact, in the midst of a revolution, a time when Congress is pushing against the Chief Executive with an eye toward seizing supreme power. This is the issue—not our foreign policy.

That is not to say that Congress is acting alone: far from it. The media wants change. There are demands for a new Constitutional Convention. The academe is an enemy of our present system. Radicals are widespread; their following is growing—and antiradicals are lost counting trees in the

forest.

If Congress can subjugate the Executive, and the revolutionary leaders can place one of their own in office, our foreign policy may go one of several different ways. Which way, at this point, is immaterial. For whatever happens after the fall of this President will not be determined by national choice but by radicals in the legislature, abetted by radicals in the media, the Academy, and the bureaucracy. They will decide their foreign course later: the argument now is over control of the Ship of State. We have come a long way, in a short time, from elections.

Do not be deceived by the surface issues. Do not fall into the error of considering all that is happening to be simple party politics. For traditional parties agree on traditional politics. Radicals are out to end traditions. Do not be lulled by the fact that we have had a series of weak Presidents since FDR. The tools of complete power, in the form of Executive Orders and the like, have long ago been forged and await strong hands.

Do not overlook the discovery that Ronald Reagan, under pressure, has reacted like the amiable but slow-witted Louis XVI, like the weak though pleasant Tsar Nicholas II, or like senile old Hindenburg.

Do not ignore these portents, signs, and omens simply because the scenario appears melodramatic: *life is melodramatic*. Measured against the patterns of history, our culture and our political situation today resembles that of Paris 1788; St. Petersburg 1916; Berlin 1933. It is true our government is not yet bankrupt; we are not in the midst of a great war, we are not in the depths of a depression. But let one disaster shake our ship, even at a distance, and the revolution will move forward here, as it has elsewhere, with amazing and irrevocable speed—unless we awaken from our single-issue trances and combine to save America.

## CONSERVATIVE COMMONS *by Barry Shain*

American conservatism in the late 18th century was unlike the European species, where popular “peasant” and articulate “aristocratic” conservatism were able to develop together and to maintain a common front against the ascendant bourgeoisie. With the exile of loyalists and the waning of the old Federalists, American conservatism was effectively decapitated; nevertheless, a popular conservatism continued to endure in the subnational practices and institutions of the American commons.

As a result, it is a serious mistake for conservative intellectuals to search for legitimacy in the thinking of the Founding Fathers and *their* national Constitution. Rather, the roots of American conservatism should be sought in the ethical tradition of popular democracy, and not in any abstract rational project. It was the majority of Americans living in villages who in the founding period and thereafter upheld this conservative ethical vision against encroachment. From the late 18th century on, two ethical visions

—nationalistic liberalism and parochial consensual democracy—would vie for the soul of America. The American national republic and its “creed” were thus born bifurcated.

It is this local-centric America, and not any nationalistic “conservative” elite (though one still *did* exist in the late 18th century), that is the source of an indigenous American conservatism. But it was amorphous and inarticulate, existing mostly at the level of village norms and practices.

The Republic came into being with its language, high culture, and national identity supplied by an increasingly liberal bourgeois elite. Its popular culture and widespread practices, on the other hand, stemmed from a distinctly different, local-centric commons whose communitarian ways continued to be renewed until the 1920's by wave after wave of European peasant immigrants.

Why “peasant”? My answer is that while aristocratic conservatism was not viable in America *after the Revolution*, the popular conservatism of the commons was very much like a European peasantry's variant of conservatism.

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In the European case, however, the peasantry's conservatism was overshadowed by the more visible aristocracy. Social classes in America were in contention, but, unlike Europe, the nascent American aristocracy was easily vanquished, leaving only the national bourgeoisie and the provincial commons as the contending forces.

American conservative localistic forces are often transmogrified into radical progressive forces. There should be no confusion here: The commons of America were reactionaries trying to maintain almost medieval social norms. They were communitarian and religious; they relied on personal relationships and prized ethnic and religious homogeneity.

Since the late 18th century, "peasant"-like populations in America resisted the forces of modernity in an attempt to preserve their premodern world of communitarian values. And associated with their largely agrarian institutions was an ethical vision of man that was antithetical to the emerging liberal view. Greater than his wants and passions, man was challenged to overcome himself either through surrender to God or through his actions as a citizen.

Of course, the forces opposing this parochial mind were composed of the small minority willing to embrace modernity; they were representatives of the same class that has so effectively controlled American historiography that parochialism is seen only as a force in opposition instead of as a competing and antithetical ethical system.

Late 18th-century America was not yet a liberal bourgeois world of nationalism and individualism. It was a world of conservative communities that intruded everywhere upon the individual.

Although conservative minds have always existed, it really makes little sense to talk about conservative political theory before the end of the Enlightenment. It was not until upper-class conservatism had lost its influence that American conservatism became self-conscious! Conservatism, then, was initially an attempt to maintain a certain world view that still had widespread acceptance in Europe. But it was only when it came under intellectual and political attack that conservatives were forced to create a set of consistent abstractions that we have come to know as philosophical or transcendent conservatism.

No bourgeois political party in America has ever espoused a conservative vision, and outside the literary circles, articulate conservative discourse did not exist until after World War II, when, ironically, popular conservatism may have already been fatally corrupted.

Philosophical conservatism holds three axioms as essential: The first of these dogmas is a pessimistic view of human nature in which man and society are understood as products of the Fall. From this perspective, man is *not* perfectible: Society can be ameliorated but can never be perfected. Man is a tragic figure who can never be allowed total freedom.

Associated with this tenet is the concept of liberty. From the conservative view, liberty is conceived as freedom from sin and uncontrolled passion, in ways very similar to the Christian and republican perspectives that were widespread in colonial and early modern America. As Goethe put it: "Everything that liberates the spirit without a corresponding growth in self-mastery is pernicious."

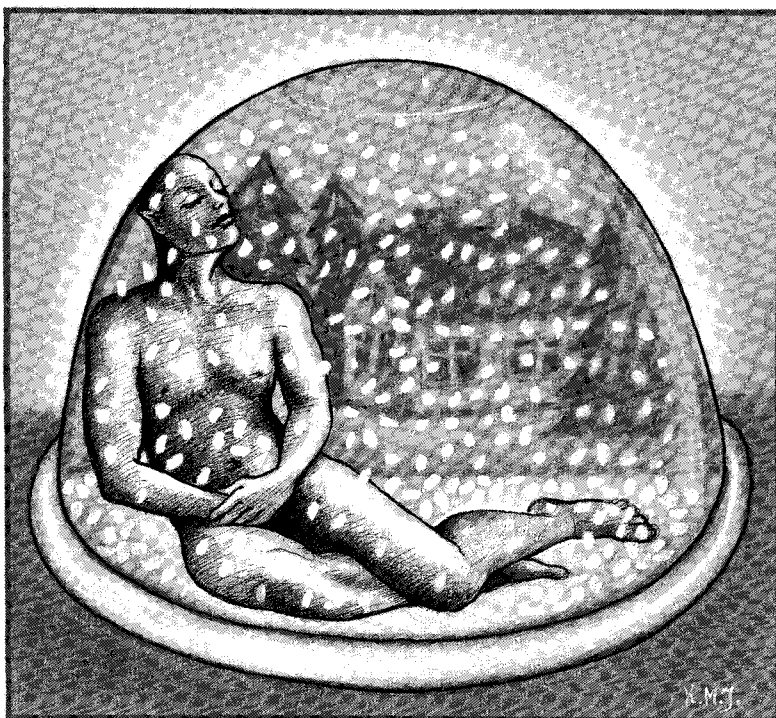
The second dogma is conservatism's organicism and its communitarian ethics. From the conservative perspective, *if a conflict develops between the intrinsic values of community and the individual, the community—which represents the higher moral end—takes precedence.* The community is prior to the individual not only morally but also historically and logically. Not only is the community a higher end but, in the conservative's view, the concept of a totally free individual is also an illusion.

Society is an organism, and man participates in this historic living entity only as part of an estate, a corporation or some such subordinate grouping, outside of which the individual has no standing.

Conservatives and romantics are understandably drawn to the Middle Ages, but this medievalism is only rarely a vulgar desire to recreate the actual institutional conditions of the medieval world; it is more frequently an attempt to understand the universal principles embodied in the medieval world's Christian sensibilities. This premodern vision is opposed in the conservative's mind to modernity's this-worldliness, materialism, anthropocentrism, anarchical individualism, and vulgar hedonism.

Human life, and to no less a degree, corporate (political, social, and economic) life, is understood as a moral activity. Man is a potential, situated between beast and God, and conservatism demands that it is God who must be served and that any culture not committed to that end, such as liberalism, is to be resisted.

Although conservatives disagree over the appropriate level of aggregation within which to pursue this aim, there is broad agreement that the good society must seek the perfection of its members' souls. Furthermore, man is expected to overcome his passions in order to fulfill his responsibilities to family, neighborhood, church, and above all else, to his divine soul. In accord with this ontology, cultural and moral relativity at the individual level is



explicitly rejected.

The third dogma central to conservatism is the complexity thesis, the center of conservative epistemology. Abstract rationalism and all arrogant attempts to use rational models of human and social behavior to construct political and social institutions are inherently based on a most imperfect understanding of extremely complex systems. All social projects must be approached with diffidence and constructed by slow adaptation and experimentation, by "muddling through," to use Irving Babbitt's phrase.

Derivative from this basic tenet is the contention that the size and complexity of centralized government must be limited because of the infeasibility of maintaining effective architectonic intelligence. It should be noted, however, *the conservative has no intrinsic love of capitalism* but regards it as a system of economics that does, at least in part, accord with man's limited and diffused capacity for gathering and using knowledge—i.e., each man is best prepared to make rational choices only about his immediate community's social, political, or economic life. But this approbation of capitalism is delimited by the society's ethical requirements that will always take precedence over the dictates of the amoral bourgeois capitalist economic system.

These three central tenets were forcefully promulgated in practice if not in voice by the vast majority of 18th-century Americans—a conservative people, albeit an anomalously popular one.

From the conservative's perspective, the aristocracy, and frequently the peasantry, are understood to be reservoirs of authentic communal values. Their respective corporate "self-regulation" and transgenerationality are seen as fundamental for the survival of any culture. For this reason, the conservative demands that the peasantry be distinguished from the poor urban masses who possess neither self-control nor a sense of historic responsibility. Consequently, unlike a well-established peasantry, the urban mass is not to be

trusted with liberty, or its political manifestation—democracy.

This "forgotten" democratic ethical tradition needs to be recovered and made articulate after having operated so beneficially as a set of localistic norms and practices for the last two centuries, because the salutary "genius" of America has been a result of the competition between the two antithetical ethical traditions outlined above.

One tradition, with its associated bourgeois class and its accompanying institutions, continuously dominated the discourse at the national level, while the other tradition, with its associated "peasantry" deeply entrenched in political and social islands, maintained a parallel and distinct universe of behavior. Nevertheless, simultaneously they were parroting the ubiquitous liberal language of the bourgeois elites. Or, as Marvin Meyers and others have observed, America after the founding period quickly became a paradox, with an increasingly disparate reality and ideology.

However, enormous technical changes in communication, transportation, and industrial organization have upset this balance and made "mass" man possible, correspondingly increasing the empowerment of their bourgeois spokesmen. The historic balance between the bourgeois liberal elite—those that "talked"—and the conservative commons—those that "did"—has been upset.

With the 1964-65 civil rights legislation, the liberal ethical tradition finally succeeded in completely supplanting the popular American conservative ethical tradition of consensual democracy whose roots were sunk deep in the soil of the 18th century, and effectively destroyed the historic balance.

Could civil rights violations, so common in historic America, have been *caused* by that which has putatively cured them, that is, the hegemony of the liberal voice in national level politics? Or put another way, was it the lack of an articulate conservative voice that explains, at least in part, the irrational and violent nature of the popular localist forces when they entered the national political arena? Was it a lack of an appropriate vocabulary and conceptual framework that made them incapable of being directed by upper-class spokesmen?

Now that the popular "unconscious lived" conservatism is no longer viable, we must create articulate ways of framing that same lived reality. In this way, alternative solutions sets might be more available to the many—in particular those solutions employing conservatism's communalist prescriptions.

In fact, it is the absence of a clear alternative that makes choice so problematic for the average "consumer" of values. It is only by means of alternative ways of understanding themselves that Americans will be able to escape the vicious cycle in which liberal individualism leads to unattractive and unforeseen consequences, and then in the search for a remedy, are turned to the self-same pathogen, liberalism. Without a sense of alternative value systems, such as could be offered by a visible and articulate conservatism, Americans cannot understand their essential problems, let alone solve them; they are not free to find anew a satisfactory balance between the two competing normative frameworks of historic America.

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# A NEW LOGIC OF HUMAN STUDIES

by Frederick Turner

Consider the following paradoxes. A welfare system designed by well-meaning politicians guided by the advice of the wisest sociologists and economists available, costing billions of dollars, whose net effect is radically to increase the numbers of the poor, especially women and children, and to deepen their misery, incapacity, and despair. A stock market which rises because the statistical instruments designed to detect similarities with previous rises are causing investors to make it rise in the same pattern and which helps to generate the financial conditions it predicts. A social polity expressly created to ensure the equality of all citizens, which produces an archipelago of concentration camps across a continent and whose theoretical dismissal of the concrete effectuality of theorizing unleashes real social forces of unparalleled savagery. A foreign policy which depends for its effectiveness on the government's ignorance of its existence and implementation. An economy which attracts foreign investment by borrowing so much money that it is able to remain politically stable and thus economically healthy.

More and more of our collective life seems now to be populated with such logical monsters, such scyllas and charybdises of reflection and feedback. Yet good as well as evil can be compounded by the peculiar kind of interest which they offer; unfairly, unto him who has much, much shall be given and the kingdom of heaven is like a mustard seed: something that will grow quite unpredictably all over the place.

But these monstrosities are the despair of any "scientific" sociology or historiography. And now physics itself seems to have caught the plague; and even that purest sanctum of linear logic, mathematics. Those positive knowledges to which modernist history and sociology appealed for a model now seem almost as messy and chaotic as the seething life of human culture.

This new vision of the "positive sciences" has emerged from the brilliant new studies of chaotic, nondeterministic, recursive, fractal, dissipative, catastrophic, period-doubling, and feedback-governed systems, associated with the names of Mitchell Feigenbaum, Ilya Prigogine, Benoit Mandelbrot, and Rene Thom. Perhaps some of these terms require a brief (and necessarily incomplete) explanation. An algorithm is a mathematical method for doing something—say, generating a geometrical shape in a computer graphic. A *recursive* algorithm is one which possesses an internal loop, such that the solution arrived at by one passage through the loop is fed back again into the beginning of the loop, "adding," as Benoit Mandelbrot puts it, "fresh detail to what has been drawn on previous runs." Mandelbrot also gave the name *fractals* to a family of

shapes, irregular and fragmented surfaces, curves, and "dusts," generated by recursive algorithms based on a random or arbitrary numerical "seed," which repeat their own form or type of form at different scales of magnification, so as to pack into their details at one scale a microcosm of the next larger scale. The space-filling curves of Peano are only one example. Mandelbrot sees these forms everywhere in Nature: in trees, clouds, coastlines, the bronchi of the lungs, corals, star clusters, waves, craters, and so on. A *dissipative* system is one which maintains its form not despite its tendency to decay but by means of it. Dissipative systems can be self-organizing; I shall discuss some examples later, such as certain forms of turbulence. The term is Prigogine's. A *catastrophe* is a discontinuity, as when the gradual increase of some factor suddenly crosses a threshold in which some entirely different state is precipitated; it can be observed when a cooling supersaturated solution suddenly crystallizes, or when an animal's behavior suddenly changes during a gradual change in the stress it is undergoing, or when a gradual change in economic factors triggers a massive move in the stock market index. Rene Thom was first able to describe such discontinuities or catastrophes mathematically, in his catastrophe graphs. *Period doubling*—Feigenbaum's term—is what happens when certain ordered systems break up into chaotic ones, like a smoke-ring dissolving in the air; out of such chaotic situations, however, new forms of order can arise spontaneously, given the right circumstances.

The lawfulness governing such systems is of a radically different kind from the rules that govern classical determin-



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istic systems embodied in the empirical causal logic of the modern scholarly humanistic disciplines. In other words, if even the sciences themselves no longer insist on a causal mechanism for events (and its attendant rules of objective and positivistic empirical evidence), then it is high time the social, historical, and humane studies reevaluated their scholarly methods. The indeterminacy of quantum physics was hard enough for the academy to swallow. The new indeterminacy is of quite a different kind.

What the new science shows us is that the operation of fairly simple processes—the period-doubling mechanism of turbulence, for instance, or the random walk of particles precipitating a crystal—can very rapidly bring about states of a system that are utterly unpredictable from their initial conditions. In a computer simulation of planetary orbits, for instance, there is an unstable zone in which the velocity and proximity of a satellite to its primary is critical to whether it will settle into a stable orbit, whether it will escape altogether, or whether it will adopt an eccentric, continually changing looping orbit around its primary. Each time the initial velocity or position is defined to a further decimal place, the resultant orbit is radically different—not different so as to form a convergent series homing in on an asymptote, but utterly and unpredictably different. Thus the accuracy by which the world is defined makes a total difference to the nature of the world itself. A seacoast measured with a one-mile ruler might be hundreds of miles long; if measured by a foot ruler, thousands; if by a micron ruler, millions; and each level of magnitude has its own lawfulness and predicts its own pattern of wave action as the surf rolls in.

Given their unpredictability, such processes might be expected to bring about mere chaos, mere ugly inchoateness. But no. Often enough they resolve themselves into extremely beautiful, complex, and stable structures, to which I shall give the generic term “paisleys.” Such forms are coming to replace the classical shapes of ideal geometry—lines, triangles, circles, regular solids—as the governing imagery of the scientific visual imagination. Examples range from the convection cells of a good rolling boil in a teakettle or the planetary pattern of trade winds or Jupiter’s Great Red Spot—a storm that has raged for hundreds of years—to the forms of electrical discharge, crystals, river drainage systems, and organic structures. These systems forget their causes, and indeed if their causal determination were the only language in which they could be understood, they would be inherently unintelligible. The “modeling” or “generative” logic by which they are now understood is profoundly new as mathematical formalism but, as I hope to show, very ancient as an intuitive human activity.

The test of whether we truly understand such a system is no longer our ability to predict it but our ability to construct another system that does the same sort of thing as the original. Perhaps we could say that we still test by prediction, but what we are predicting is not a certain future state of the system but the general type of behavior of the whole system itself. In other words, we are not predicting along a line of time, but across a sort of plane. And this notion, of other temporal geometries than the linear, has enormous implications not only for the study of history but for the arts

and humanities in general.

The common feature in all these systems is feedback. The simplest forms of feedback are given in the initial conditions, for instance the setting of the thermostat of a home heating furnace. In this case the only unpredictable element is the precise value of some parameter—in our example, the temperature of the house at a specific time, in the course of its wanderings up and down around the “attractor” or average temperature we have set for it. More complex feedback systems can set their own parameters or even create the sort of parameters toward which they aspire or around which they oscillate. That is, their state at any given moment is the resultant of ordering processes that have arisen within the system itself.

Now the supreme example of such self-organizing systems is life. And we may go further and say that the evolution of life has been the evolution of more and more autonomous and complex and unpredictable—because inventive—feedback systems. The human species is, as far as we know, the most advanced state of this process, where it shows in its most paradigmatic and articulated form the general tendency it always exhibited. Nature strives toward freedom, in the sense of autonomy, as the clearest expression of its essence. And here of course we return to our subject, which is the present crisis in history and social studies.

For surely, *a fortiori*, the collective activities of human beings are of all phenomena in the world the most fully governed by the principles of complex feedback systems. Social game theory takes us part of the way. Consider a simple dyadic predicting contest—a little marital spat on a Sunday in some large American city. There is tension between Jack and Jill; they haven’t been able to talk much recently, because they have both been working hard. Jack, as usual, intends to get Sunday lunch. Jill, however, knowing what Jack has in mind, intends to shop for lunch at the deli instead, in order to upset him. But Jack knows his Jill. Guessing that she intends to go out to the deli in order to forestall Jack’s usual lunch, Jack plans to claim that he is feeling ill and doesn’t want lunch. Jill, though, expects the “I feel sick” ploy and finds occasion to joke pleasantly about Jack’s past propensity to use pretended illness to get out of things. Jack, recognizing that the game has got too complex at this level, changes levels by deliberately randomizing his own behavior. He starts a tedious conversation about fatal illnesses. Jill is flummoxed only for a moment, then recognizes the paradigm—or genre-switch. She plays the same game, but without any pretense at normal conversation, breaking in with some earnest remarks about chickadee nesting habits. She has thus thematized the issue of avoiding the subject and changed the ground rules once again. Jack now steps outside of the conversation and looks at it as a stranger might; no longer as “Jack versus Jill” but “Jack and Jill versus the outside world.” He sees how absurd they sound, catches Jill’s eye, and they both collapse in laughter. No doubt they will go out to lunch at their favorite cafe. Or maybe not.

Jack and Jill have become a “we” by internally modeling each other’s motivations and each other’s image of the other. In the process they have touched on a broad and sensitive range of values and value judgments. Their story is

not atypical; the narrative and dramatic arts are full of this sort of thing, and Erving Goffman and Thomas Scheff, among others, have provided close analysis of it. Now imagine it extended to the billions of dyadic relationships in the human world, and the trillions of larger group relationships. Nor are such strategies unique to intimate relationships. One could easily demonstrate the same sort of strategy at work between, say, two opposing generals in the wars of the Austrian Succession. All human interactions significantly involve such halls of mirrors.

Our first observation, that it was an error to apply to human affairs the deterministic logic of classical science, would if left on its own imply that we might as well give up on such studies altogether. But there is now a body of theory and concept that can put them on a new footing. In the remarks that follow, I shall pay special attention to historical and social studies, but I do so to let part stand for whole; much of what I have to say applies broadly to the humanities, the academic study of the arts, and the human sciences as well.

For want of a nail, the kingdom was lost. Imagine the predicament of a historian, reminded, by some trivial historical episode with momentous effects, of the insecurity of the discipline of history. The tiniest event can snowball into the most gigantic consequences, just as the minutest subatomic difference in a flow can result in an utterly altered pattern of turbulence. Philosophers of history have never been able to demonstrate that this snowball effect *cannot* take place. Perhaps every event that occurs is just as crucial, and just as insignificant, because undifferentiated in importance from everything else. Perhaps this is the specter, the existential cackle of empty laughter, that haunts certain historians, that drives them to construct their elaborate deterministic edifices of economic and social history, class struggle, invisible oppressors, conspiracy theories. Like Casaubon in *Middlemarch*, they set out to uncover the Key to All the Mythologies.

Another kind of historian with a different temperament, confronted with the appalling indifference of historical significance, will seek to enumerate all the primary sources, to recite all the "facts," to deal with all exceptions to all rules, all special cases, all the statistics, and to do it without bias, without giving any one fact more significance than any other. It is as if one should seek an understanding of a turbulent flow by listing and mapping all the positions of all the particles in the flow at all times. Perhaps if the map is on a fine enough scale, the answer will emerge. The mapmakers of Borges' mad dictator who made a map of the country so perfect that when opened it covered the country itself and brought on its economic ruin, or the mole in Kafka's story who kept building new tunnels to keep watch on the entrances of his burrow, are literary examples of this mindset. Such heroic historians, fixated on the old intellectual modes, accumulate a tragically meaningless scholarship. Given this approach, why should not a life of scholarship which devoted itself to a descriptive catalog of every spot on the library wall—and there are enough spots on any library wall, if we choose small enough parameters—why should not such a labor be just as valid as Darwin's collection of evidence for evolution, or Albert Lord's for oral composition? Why is one fact more significant than

another?

Not unlike the collecting moles in their theory, but different from them in practice, are those postmodernists and deconstructionists who accept the complexity and interdependence of the world but refuse to recognize the real stable order that it also generates. Unable to escape their own Oedipal and patriarchal model of knowledge, which insists that the identity of something derives from what originated it, they regard order as an illusion because that order originated out of chaos. Self-made men and women, they are as horrified by the idea of the self-made—by the *made*—as by the primal scene itself. For them to make, to create, is a fascist imposition of a totalizing structure upon the freeplay of the world. They thus abolish the idea of the writer, the maker, the text, the made thing, even the reader, even the world. They seize on quantum theory as a sort of warrant for a deconstructed and valueless universe—quite erroneously, of course, as indeterminate particles happily clump together to make very determinate pieces of matter. Those determinate pieces of matter indeed evolved sometimes into self-ordering and even free systems; but this does not help the deconstructionists' case.

If the responses of the historical determinists, the obsessive collectors, and the rebels without a cause are inadequate to the problem of history, what approach might really work? The beginnings of an answer to this question are what this essay proposes; to get there we must follow a somewhat winding path of dialectical reasoning.

Any analysis of historical events that we make, or any theory of social behavior we formulate, is itself one of the determining factors in the situation it describes. Thus there is no "meta" position, no detached Olympian viewpoint from which objective assessments can be made, and therefore no escape from the apparent chaos of mutual feedback. We are all revolutionaries and reactionaries, whatever our claims as historians or social scientists. Economists are just another group of competitors over what constitutes value.

Not that this struggle for ontological control is a blind one. We would be totally ineffective at it if we were not able to assess the motives and assume the world view of others. And even this would not be enough. Our imaginative model of the other must contain its own image of oneself—the gift, said Robert Burns, is to see ourselves as others see us; and that image itself must contain its own assessment of the other. And our outer negotiations take place not just between our own persons but also among the entire *dramatis personae* of the inner drama by which we estimate the future. The confusion is not one of blindness but of too much sight; not of randomness but of an excess of determinants; not of chaos but of an order too complex to be explained before the next complicating event comes along—of which the next, complicating, event is the best explanation.

Indeed, this capacity to impose our interpretations on things is not only our predicament but also what enabled us to second-guess, predict, and control the simpler systems of nature, such as the biological, chemical, and physical ones. We bought our power over the rest of nature with the essential uncontrollability of human events. We can control nature to the extent that we stay one step of reflexivity ahead of it. Nor is even nature innocent, but itself the

resultant and living history of a cosmic evolution which pitted many forms of reflection against each other; the marvelous cooperation of nature is a prudent and subtle form of mutual feedback. Even so, when we find we can reduce another organism to a successfully testable set of laws and predictions, it is a sign that we are dealing with a lower order of reflections than our own.

Thus to attempt to do so with human beings, to educe and apply the laws governing them and to predict their actions, is, in human terms, a viciously aggressive act, an attempt to get control at the expense of others' freedom. It implicitly reduces human beings to the level of things, of lower animals. But this indeed is what much social and economic history, much sociology and progressive political theory, has attempted to do. The promise such studies held out was not lost on those with the sweet thirst for power. Transformed into political programs, those systems appeared in our century as the great totalizing regimes—Marxism, Fascism, National Socialism, International Socialism. We should not be surprised at the vigorous counterreaction of human cultures against such systems.

In the light of this analysis it now becomes clear why with the best will in the world all principled revolutions have ended up diminishing human variety and freedom in their societies. For a revolution to be truly freeing it must be unprincipled, in the sense that its intentions do not rest on a predictive theory of human social behavior. Such a revolution was the American, whose ideas, enshrined in the Constitution, really amount to a declaration of regulated intellectual anarchy. The principle of separation of powers, which is, more than equality and more even than democracy, the central message of the Constitution and the thematic undertone of every article, is an intuitive recognition of the reflexive, self-organizing, unpredictable, feedback nature of history, which by reinterpreting its initial conditions is able to forget them.

Separation of powers makes politics into a drama, not a sermon. Perhaps the true hidden presence behind the Constitution is William Shakespeare. All the world's a stage. We are all actors, in both senses of the word. Our inherent value derives from that condition, not from Kant's notion that we are ends in ourselves. We can still keep our dignity even if we are, for immediate purposes, means, as long as we are actors in the drama. Even if their function is to serve, the crusty boatman or witty nurse or pushy saleslady are interpreting the world from their own center, are characters, *dramatis personae*, to be ignored by others at their peril, and are thus free. We might, parenthetically, therefore view with alarm the tendency in modern and postmodern theater to get rid of characters altogether.

But of course even *this* formulation which I have made is itself a part of the situation it describes; it is a speech in the play, to be evaluated by your own reflexive processes of assessment. Let us see whether the line of thought it prompts is more or less liberating than its competitors.

We immediately run up against a large problem. Does this critique of historical and human studies mean that they must revert to the status of chronicle and appreciative observation? Like amateur naturalists, must their practitioners only be collectors, without testable hypotheses or laws? Should we just admire the exquisite coiled turbulence

of human events, wonder, and move on? The French historian Fernand Braudel is almost such a historical naturalist; there are moments as one contemplates his great colorful slowly roiling paisley of mediterranean history, seemingly without direction or progress, that one could wish for little more out of history. Should not the historian be a sort of Giacomo Casanova, a picaro among the courts and sewers of eternal Europe or China, remarking the choice beauties to be seen on one's travels?

A directionless view of history can be seductive. But even if the essential logic of the modern humane disciplines is utterly erroneous, it has nevertheless provided an impetus and direction for research and has led to the vigorous discovery of huge masses of information, at least some of which is interesting to everyone. The bias of that information, the preponderance of certain types of source and the direction of the researchers' gaze, may be corrupting; but in itself we feel it to be valuable.

But let us explore the possible value of the naturalist's or chronicler's agnosticism. Although it might not wish to own up to it, deconstructionism actually presents a rather good case for this perspective—to the extent that a case as such, with all its theoretical baggage, can be made for so uncaselike an approach. Deconstruction is purposely not long on logic, and as such it is quite consistent. The *bête noire* of all deconstructionists is totalization. What does totalization mean? Once we have disposed of those cases of totalization which every sane person would deplore—Nazism, for example—we get into interesting territory. What makes deconstruction unique is its inability to distinguish between those forms of order we would all agree are evil and such things as the narrative structure of a text, marriage and family, the idea of the writer and the reader, even the very idea of the self or person. There is no plausible place for deconstructionists to stop on their slide into total inarticulacy. Poor Jacques Derrida, nailed recently to the wall by the inspectors of ideological purity on the subject of South Africa, was forced to squirm to reconcile the indifference of his skepticism towards all forms of order, his fundamental belief in the radical apartheid of all points of view, and his decent liberal distaste for the regime.

Certainly history and sociology would be easy meat for a deconstructionist's acid test; but so would any human or indeed natural product, process, or action. Deconstructionism has now begun to turn its acids on itself; as it does so, it will encounter the paradox of what container to keep the perfect corrosive in. And if it is not the perfect corrosive, deconstruction must end up, like its old enemy Descartes, asserting with more totalizing violence than any other system that it is the one idea which is not subject to the deconstructive process: in Descartes' system, the *cogito ergo sum*, "I think, therefore I am," isolated by his skepticism about all else; in Derrida's, that force or energy he perceives as prior to and underlying all difference.

But there is a rather benign factor to deconstructionism, to be found, for instance, in Jean-Francois Lyotard's classical essay on postmodernism. Here he offers a way of thinking about human society that makes no generalizations and which recognizes all human activities and thoughts as flows in a great interacting soup of information. On the face of it, a very attractive vision; and it satisfies

some of the criticisms we leveled earlier at history and the social "sciences."

But in doing so it abdicates that very activity—holistic understanding and the enrichment of the world by interpretation—that characterizes the human *Umwelt* itself. The admonition not to totalize is the most totalitarian command of all, since it essentially dehumanizes history. The feedback process of human culture is a feedback of what deconstructionists would call totalizations. The open-endedness of history is created by the competition and accommodation of various candidates for the last word, the *dernier cri*, the formula of closure (including this one); it is an ecology of absolutisms. Nor is this ecology a random play of flows, without direction or growth; technology, records, and enduring works of art constitute ratchets which prevent any return to earlier, less complex states of the system, just as genetic inheritance did in earlier ages. Thus history is an evolutionary system, with the three factors required for evolution to take place: variation (provided by the unpredictable paisley of reflexive events), selection (provided by the competition and accommodation of "totalizations"), and inheritance, a conservative ratchet to prevent what is of advantage from being lost.

The only way open is to seek principles of understanding and descriptive categories that are proper to our own level of reflexive complexity. To do this is essentially an artistic, constructive, performative, and religious activity, and it cannot fully depend on the capacity for calculation by which we claim to understand the rest of the natural world. (Even this claim must yield at a certain point. Ultimately scientists appeal to the beauty of a theory to justify it before the infinite plenum of its equally consistent rivals.) History is an art, even a technology, or a liturgy as much as it is a science; and it is so not only in the activity of historiography as research.

In other words, I am proposing a change in our fundamental paradigm of historical and human study. And here another set of major scientific advances comes into play. Most workers in the historical and sociological fields still accept the cultural determinism that was one of the first naive responses of the West to the cultural diversity of the newly discovered non-Western world. Thus for them the units of historical study, human beings, are *tabulae rasae*, to be inscribed by cultural conditioning or economic pressures.

More recently, however, in fields as diverse as cultural anthropology, linguistics, twin-studies, paleoanthropology, human evolution, psychophysics, performance studies, neuroanatomy, neurochemistry, folklore and mythology, and ethology, it is becoming clear that we human beings bring to history and society an enormously rich set of innate capacities, tendencies, and exclusive potentials. We uncannily choose, again and again, the same kinds of poetic meters, kinship classifications, calendars, myths, funerals, stories, decorative patterns, musical scales, performance traditions, rituals, food-preparation concepts, grammars, and symbolisms. We are not natureless. Indeed, our natures include, genetically, much of the cultural experience of our species in that period of one to five million years of nature-culture overlap during which our biological evolution had not ceased, while our cultural evolution had

already begun: the period in which unwittingly we domesticated and bred ourselves into our humanity. The shape and chemistry of our brains is in part a cultural artifact. We are deeply written and inscribed already, we have our own characters, so to speak, when we come from the womb.

So having taken away one kind of rationality from historical and human studies, we may be able to replace it with another. But in so doing are we not committing the very sin—reducing a self-organizing and unpredictable order to a set of deterministic laws—of which we accuse the determinist historians? Are we not replacing cultural or economic determinism with biological determinism? Not at all. First, to understand the principles governing the individual elements of a complex system is, as we have seen, not sufficient to be able to deduce laws to predict the behavior of the ensemble. The beautiful paisleys of atmospheric turbulence are not explained by the most precise understanding of the individual properties—atomic weight, chemical structure, specific heat, and so on—of its elements. Second, the peculiar understanding of the human being that we are coming to is that of a creature programmed rather rigidly and in certain specific ways to do something which is totally open-ended—that is, to learn and to create. Our hardwiring—whose proper development we neglect in our education at great peril—is designed to make us infinitely inventive. Our nature is a grammar that we must learn to use correctly and which, if we do, makes us linguistically into protean gods, able to say anything in the world or out of it.

Thus the paradigm change which this line of argument suggests is from one in which a social universe of natureless, culturally determined units is governed by a set of causal laws which, given precise input, will generate accurate predictions, to one in which a cultural universe of complex-natured but knowable individuals, by the interaction and feedback of their intentions, generates an ever-changing social pattern or paisley, which can be modeled but not predicted. The meaning of understanding would change from being able to give a discursive or mathematical account of something to being able to set up a working model that can do the same sorts of things as the original.

Fundamental political concepts like freedom, war, civil order, equality, literacy, power, justice, sovereignty, and so on would no longer be defined in terms of a set of objective abstract conditions but as living activities in a one-way unrepeatable process of historical change. It would be such a revaluation as occurred in literary criticism in the 19th century, when tragedy came to be defined as a process, an organic and recognizable activity, rather than as conforming to such rules as the Three Unities. Conceivably the automobile has done as much to create political freedom as any set of laws; yet historical and political scholarship is taken by surprise by such relationships. Imagine how governable the Soviet Union would be if everyone had a car—or a personal computer with a modem; *glasnost* may be more than what the party bargained for. Is not justice very much a matter of talent and personality? Blake said: One law for the ox and the lion is oppression. Might there not have been more equality of certain valid kinds between a gentleman and his valet than between an employer and employee in a classless society? Is not power the most

questionable and fugitive of all concepts, seemingly so solid at one moment but blown away by unpopularity the next? What is war in an age of terrorism, export dumping, military computer games, and nuclear standoff?

Such questions are not intended to induce the *aporia* of the mole-historian we depicted earlier, trying to define those troublesome ideas by the mere accumulation of data, so as to take into account all the exceptions; rather, they are a preface to a new/old kind of historical understanding. Objective and abstract definitions of political concepts imply utopias, ideal social states towards which historical politics should strive; satisfy the definitions, and we have perfection, the end of history, an objective rationality to judge all of the past! Horrible idea; but it governs most political enthusiasm. Instead, let us imagine a peculiar kind of progress; not the old one—toward Whig empire or Hegelian state or proletarian or socialist or technological paradise—but a progress in changing terms which themselves progress by subsuming earlier ones; a progress that looks like decline or stagnation to those fixed to one idea of it; a progress not along a straight time-line but along one which curves back and fills up the holes in itself until it begins to look like a plane or a solid; a progress forced out of the evolutionary competition of totalizations, in which those most accommodating, most loving to each other, like the mammals, have the best chance of survival.

But is not progress an outdated concept? Even among the historians of science there are now those who deny any progress. Thomas Kuhn, the theorist of scientific revolutions, has publicly questioned whether there can be any improvement from one scientific paradigm to the next—say, from the Aristotelian to the Newtonian. Fritjof Capra goes even further into scientific agnosticism. The deconstructionists all vehemently deny the possibility of progress. Likewise Robert Heilbroner and the Club of Rome. But all these thinkers are caught in a logical trap, from which there is no escape. For either their own ideas are an improvement on those of their predecessors, in which case progress has occurred (and could in theory occur again), or they are no improvement, which implies there is no reason for us to take them seriously. In either case their ideas do not stand outside or above the process of history.

Since some notion of progress is thus a logical precondition of any attempt at understanding or argument, let us examine where the critics of progress go wrong. Kuhn argues that since the criteria of coherence and explanation that Aristotle's science satisfied are different from the criteria met by Newton, to compare the two systems is to compare apples and oranges. Because the difference between the criteria themselves is a matter of values, not facts, no determination of superiority can be made between them. The assumption is that values are not real; and since this assumption is the key to an argument whose conclusion—that there can be no progress—is manifestly self-contradictory, this assumption must be false. Values, then, are real. Their improvement can improve the criteria of scientific study, and thus the quality of scientific knowledge.

And here we may begin to redeem that promise of principles of understanding and descriptive categories proper to our own level of reflexive complexity that we implied

earlier. The real forces at work on the stage of history are *values*. And values are uniquely qualified for a role both as tools to understand history and as forces at work in it. One qualification is just that: They straddle the worlds of action and knowledge, they admit candidly our involvement, our partisanship, our partiality, and our power. Objectivity in a historian is an impossible goal in any case. Another qualification of values is that they give a kind of direction to history, the possibility of progress, which is the logical precondition of any inquiry. Values are essentially dynamic, readjusting, contested, vigorous, as the word's derivation from the Latin for "health" and its cognate "valor" imply.

We must reexamine those older partisan brands of historiography that wore their values on their sleeves: heroic, exemplary, mythic history. Perhaps their intellectual credentials were not as shaky as we thought; perhaps they were not so naively unaware of the possibility of their own bias. Herbert Butterfield's critique of Herodotus is a lovely example of the way in which the critic is ironically exposed by his material:

He wrote history partly in order that great deeds (whether of Greeks or non-Greeks) should be placed on record, and partly because he wished to lay out the causes of the Greco-Persian war. He was interested in the way in which things came to happen and would look for rational explanations, showing the influence of climate and geographical factors and presenting excellent portrayals of character, though he was liable to impute important events to trivial incidental causes, the influence of women [sic] and purely personal factors. At the same time he had a disturbing sense of supernatural influences, showed the inadequacy of human calculations, the retribution that Heaven would inflict on great misdeeds, and introduced dreams, oracles, visions, and divine warnings of approaching evil.

With Herodotus we might cite the great Roman historians Alfred and Shakespeare on English history, Vico, Burke, Tocqueville, Burkhardt, and Huizinga as all in one way or another recognizing the fundamental importance of values as the driving force of history. Shakespeare especially is an exemplary historian of the persuasion I wish to urge; more than anyone else he sees how together we make up the drama of history according to what we deem to be the best, and how from that loom flows the rich pattern of human events.

It might well be objected that I am advocating an outrageous abandonment of objectivity, and giving license to the worst forms of ethnocentrism and bias. Indeed, I must plead guilty, but with mitigating circumstances. It was the age of "objective" history that provided the fuel for scientific racism, holocausts, colonialism, and the Gulag. The ideologue who believes he has objective truth on his side is more dangerous than the ordinary patriot or hero, because he calls his values "facts" and will disregard all ordinary human values in their service. We are going to be ethnocentric anyway; let us at least play our ethnocentrisms against each other on a level playing-field and not attempt to get the objective high ground of each other. Given such a

game, in the long run adaptive success attends those versions of our partisanship which have the widest, pan-human, appeal. Let us not seek to avoid bias but to widen our bias in favor of the whole human race and beyond.

This approach especially questions the apparent straightforwardness of the notion of political power. Events occur, and their meaning is rich and complex. The events are made up of the actions of men and women; and if they performed those actions then tautologically they had the power to do so. Do we gain anything by inserting the idea of power? Suppose they didn't perform the actions; could they have? Could we prove it? Power depends on values, and values on the individual and collective imagination.

Even the very methodology of historical research may have to be profoundly modified if the new view of history is to prevail. A perceptive critic of historiography, Gene Wise (*American Historical Explanations*) has already pointed out some of the fallacies in the accepted model of historical research, in which "primary sources" (contemporary documents and suchlike) are valued more highly than secondary ones (e.g., later interpretations by historians), and they in turn are preferred over tertiary discussions and revisions of historical interpretations. He rightly declares that the only true primary source is the actual experience of the participants in historic events. All other sources are secondary and partial filters; but the nature of the filter itself is part of history, and perhaps a more crucial part than we think. R.G. Collingwood said: All history is the history of ideas. Or we might put it this way: history (small h) is History (capital H).

Perhaps we could go even further and remark that much contemporary documentation may paradoxically be worse evidence than later judgments by hindsight. Consider an analogy: the information-processing system of the human eye and visual cortex. If "primary" evidence is better than secondary, then the best visual data about what is happening in the "outside world" is the raw firing of the retinal neurons—the work of the optic nerve and visual cortex would amount to nothing more than a heap of opinion and sophistry. The military technologists who wanted to design an eye by which homing missiles might recognize their prey took this position at first but were soon proved wrong. Their attempt to hook up a TV camera to a simple computer programmed with pictures of enemy tanks simply did not work. The raw data did not add up to tanks but to a riot of shadows, colors, changes in reflectivity and albedo, geometric distortions by perspective, and confusing shifts which could not distinguish between subjective motion, motion of the object, changes in the object, and changes in light and shadow. To make a catalog of all the appearances a tank might take on would require a memory as big as the universe, which, moreover, could easily mistake something else for a tank. Later work by Artificial Intelligence researchers like Marvin Minsky and vision scientists like Edwin Land and David Marr revealed the astonishing hierarchy of ganged or independent servomechanisms that makes up vision, and its radical dependence on prior expectations, needs, or questions to make any sense of the world at all. In other words, the secondary and tertiary sources are much more reliable than the primary ones, to use the old classification.

Further, of course, the physical world is, as we know now from quantum theory, constituted by the cooperation of sentient beings. Thus tanks don't look like tanks and can't act as tanks without being interpreted as tanks; their tank existence derives from the secondary and tertiary data. And of course this analogy is more than an analogy but a further deconstruction even of Wise's notion of "experience." If the old hierarchy of primary and secondary is so problematic for visual experience itself, think what it is for the process of historical evidence-gathering. What history really is is our interpretation of it. We are all, in the deepest sense of experience, contemporary experiencers of those historical events, quite as much as the astronomers are contemporary experiencers of the supernova that exploded 160 million years ago and whose light has just now hit their telescopes. We can with relief relinquish the positivism of the old mainstream historical research; after all, the physicists abandoned it 50 years ago.

We can abandon, too, that kind of history which assumes always that there is a true, hidden version of events, of which the apparent surface is a hypocritical cover-up. Of course, hidden motives and interests do govern what goes on; but everybody has such motives, and everybody is a player in the game, a partner in the feedback. If the population is deceived, it may be because it wants to be deceived and, if the deceiver is unveiled, will get itself a more competent magician and a more satisfying illusion. And such collective creations, in this contingent world of ours, verily constitute reality. The surface of history is the reality, and the new historiography will treat it as an expressive, meaningful, but inexhaustible artistic object, and not seek only to reveal an inner truth that derives from initial conditions or a conspiratorial *deus ex machina*.

This means that the capacity to recognize beauty, the aesthetic sense, is the primary cognitive skill of the historian or sociologist. It is by beauty that we intuit the order of the reflexive process of human history. On the small, tribal scale, the need for this essential function may well have been one of the principal selective pressures that led us toward our extraordinary inherited talents at storytelling and the interpretation of narrative. History should be refounded on story, not the other way around. Indeed, much of the most exciting new work in sociology—for instance, the work of Thomas Scheff—is beginning to take this direction and to break free from its positivistic traditions; cultural anthropology, with its participant-observer methods and its tradition of listening to native informants, did not have very far to go.

If the new definition of historical understanding is that we understand what we are able to model, and if our new definition of evidence is experience, how do we model and experience history?

I would suggest a number of ways, some of which are already being used unsystematically and without theoretical justification, but very effectively nonetheless. Almost all of them involve a greater or lesser degree of collapse between the activities of teaching, learning, and research—which would be no bad thing for our academics.

First, historical reenactments. Popular culture, as often, is ahead of the academics. The reenactment of Civil War battles and the battles of Texan independence has become a

vital and creative popular movement. Historians should pay close attention; the experience of the "soldiers" is apparently extraordinarily intense and often not what one would expect. Of course reenactment need not be confined to military events.

Second, ethnodrama, which is a new technique designed by anthropologists and performance experts to enact central ritual or social activities from other cultures and periods—marriages, funerals, and other social dramas. The Smithsonian, to its credit, has recognized the historical value of this form of knowing by doing.

Third, the use of events taking place now, of which our experience is peculiarly sharp, to partially model past events. Those modern events may be the more useful as models because of their divergence from their analogue. For instance, the current state of conflict in the Middle East may valuably model the Thirty Years' War in Germany and the other postrenaissance religious conflicts in Italy and France.

Fourth, war games and their extension into the diplomatic, social, and economic spheres. War games have in the developed world now largely replaced actual battles as the most efficient way of resolving military struggle; we are engaged in such a war with the Soviet Union at this moment, and have been for some years. The actual

weapons are little more than gold reserves, so to speak, kept in the bank to support the working currency, which is the games. With the advent of better computers, we should be able to game-model a variety of historical situations and cultural processes, altering the parameters, variables, and degrees of feedback until we get a course of events which matches the historical data. The point is, the data need not be especially rich, or even reliable, to provide, as an ensemble, extremely rigorous and exclusive criteria to be satisfied by the model. Leontieff's mathematical model of the economy of the United States is a nice example of what can already be done along these lines.

Finally, I would suggest the careful attention to fictional and dramatic accounts of history, their performance, and even their fresh creation. This is a time-honored and enormously fruitful practice; but it may be even more fruitful if we treat it as serious historiography. Here we may test the validity of historical ideas by seeing whether the events of history are psychologically and narratively consistent with the fictional model.

We are perhaps ready now to apply Marx's dictum—that the point was not to understand history, but to change it—in a way quite different from what he intended. That art which changes history may be its most intimate and precise study.

## JUDICIAL EDITING AND CONGRESSIONAL INACTION *by Kyle E. McSarrow*

Much has been written in recent years on how courts construe law, whether it is the Constitution or a statute. The discussion typically addresses the judiciary's search for the "intent" of the framers or legislators and reflects a continuing debate on what limitations our system of government places on a court when it applies written law to the facts of a specific case. This debate has, for the most part, focused on the extent to which courts usurp legislative functions by interpreting statutes in a way that adds their own ideological gloss.

Unfortunately, the ambiguities frequently found in texts of statutes passed by Congress invite—even demand—resort to external aids of interpretation, if only because the legislative branch has sometimes embraced ambiguity for political reasons with every expectation that the judiciary would fill both the political void and the text of a statute. As a result, the judiciary increasingly has had to search for the majority will with relatively little help from the legislature.

Is the resort to anything other than the text of laws ever inappropriate? Phrases such as "original intent" and "evolving standards of decency" and "supported by the legislative history" reinforce the impression that the text of a statute rarely serves to resolve its meaning. When interpreting a statute that is ambiguous, internally contradictory, or po-

tentially conflicting with other law, such external aids as legislative history are necessary. But what of a statute whose meaning is clear on its face? We might expect to find judicial opinions that are no more than a recitation of the relevant statutes. Instead, a court may well decide to edit the text because it perceives incongruities between the statute as written and its purposes as gleaned from external evidence.

Although this type of interpretation represents a more blatant exercise of judicial power than the interpretation of ambiguous statutes, in doing so the courts encounter surprisingly little protest. Judicial editing may appear to concern some observers less than unrestrained judicial interpretation, in part, because Congress could more easily rectify the result. While judicial interpretation of an ambiguous statute is so subtle an exercise of legislative prerogative that the cloak of legitimacy provided by "statutory construction" would generally shield a decision from scrutiny, judicial revision of an otherwise unequivocal text is so dramatic that it should compel a legislature to react.

This is, however, too simple. When would a court take such a dramatic step? A case involving insignificant issues hardly invites a court to bother with reading beyond the text. It is more likely that a court would feel compelled to ignore the text and search for something more, in controversial cases, and it is not at all clear that Congress would ever be able to rise to the judicial challenge when great

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societal issues are at stake.

The Supreme Court's recent decision in *Johnson v. Transportation Agency, Santa Clara County, California* illustrates this point. The Court in *Santa Clara* reviewed an affirmative action plan that was challenged under Title VII of the Civil Rights Act of 1964. The affirmative action plan was not intended to redress identifiable discrimination; instead, the plan was intended to change "conspicuous imbalances in job categories traditionally segregated by race and sex" to reflect the makeup of the available work force. Race and sex were each to be just "one factor" taken into account in evaluating candidates for promotion. Justice Brennan, writing for the majority, held that this affirmative action plan was "fully consistent" with Title VII.

Title VII provides that "[i]t shall be an unlawful employment practice for an employer (1) . . . to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin; or (2) to limit, segregate, or classify his employees . . . in any way which would tend to deprive any individual of employment opportunities . . . because of such individual's race, color, religion, sex, or national origin." On its face, the text of Title VII could not be more clear. It expressly prohibits the very activities contemplated by the affirmative action plan reviewed in *Santa Clara*. How the Court found that Title VII could accommodate this plan in the face of such clear statutory language to the contrary is no less interesting than the policy implications of the decision itself.

The *Santa Clara* decision was primarily the product of an earlier Supreme Court decision, *Steelworkers v. Weber*, decided in 1979. In *Weber*, Justice Brennan, writing for the majority, concluded for the first time that Title VII did not prohibit an affirmative action plan that reserved 50 percent of all openings in a craft-training program for black employees until the percentage of black craftworkers reflected the percentage of blacks in the local labor force. Acknowledging that a literal interpretation of Title VII seemed to preclude any discrimination, Brennan nonetheless concluded that it was necessary to look beyond the text to the legislative history because the letter of the statute was "not within its spirit." How Justice Brennan reached this conclusion without already having looked beyond the letter of the statute was not explained.

The *Weber* Court concluded that the purpose of the statute, expressed in themes found in the legislative history, was at odds with a literal interpretation. The first theme was Congress' concern to provide opportunities for blacks in the economy. The legislative history was replete with examples of opponents alleging that Title VII could *require* employers to grant preferential treatment to minorities. The objections were answered by an amendment stating that "nothing . . . shall be interpreted to require any employers . . . to grant preferential treatment." From this, the Court discovered a second theme: Had Congress intended to prohibit all discrimination, it could "easily" have provided that Title VII would not "require or *permit* preferential treatment."

Concluding that the statute's purposes were at odds with its literal terms required the Court to make several assumptions. First, they assumed that a mere prohibition of

discrimination could not possibly provide employment opportunities for blacks; rather, some reverse discrimination was always necessary.

Secondly, they assumed that there was no prohibition against preferential treatment. The *Weber* Court emphasized the legislators' concern that Title VII would unduly regulate private businesses. But rather than interpret this as a concern that Title VII might place the federal government in an intrusive regulatory role, the Court cited this concern in concluding that Title VII thereby left private businesses free to structure affirmative action plans. The Court's reading, however, forces the somewhat implausible conclusion that legislators in 1964 were worried that Title VII would prevent previously *discriminatory businesses* from aggressively remedying their past wrongs.

Finally, the Court concluded that the appearance of "require" rather than "require or permit" implied that Congress intended to allow private employers to grant preferential treatment to minorities. One may well question the legitimacy of such an inference in the face of an express provision. Moreover, the Court's conclusion conflicts with repeated statements of the bills' sponsors. It is revealing that, for all his reliance on external aids, Justice Brennan dismissed that particular legislative history with little discussion. Justice Blackmun, concurring in the majority opinion, concluded, somewhat disingenuously, that "if the Court has misperceived the political will, it has the assurance that because the question is statutory Congress may set



a different course if it so chooses."

But by 1987, Congress had not set a different course. The *Santa Clara* Court was quick to regard this as support for its interpretation of Title VII: "Congress has not amended the statute to reject our construction, nor have any such amendments ever been proposed, and we therefore may assume that our interpretation [in *Weber*] was correct." Justice Stevens concurred in the majority opinion, despite his frank acknowledgment that "the only problem for me is whether to adhere to an authoritative construction of the Act that is at odds with my understanding of the actual intent of the authors of the legislation." For Justice Stevens it was enough to rely on precedent. Justice O'Connor also concurred on the basis of *stare decisis*. Justice O'Connor pointed out that "[n]one of the parties in this case has suggested that we overrule *Weber*," and that given *Weber* as a baseline, the *Santa Clara* affirmative action plan did not run afoul of Title VII as interpreted by *Weber*.

*Santa Clara* is an interesting case because of how the majority used *Weber* to reach its result. The majority opinion justified its conclusion by Congressional inaction after *Weber*. And two concurring Justices, enough to swing the vote the other way, scrupulously avoided repeating a textual analysis by relying on *Weber* as precedent. Justice Stevens implied that *Weber*, in which he took no part, was wrongly decided. Justice O'Connor shifted the issue from a violation of Title VII to a violation of the *Weber* decision.

What, exactly, is the significance of Congressional inaction when the Court rewrites a statute to make it conform to its "underlying purposes"? A statute that is clear on its face but can be interpreted as incompatible with its supposed purpose or "spirit" may reflect very real competing concerns. There will often be several purposes underlying the movement of legislation from its inception to passage, and the purpose apparent to those who peruse the legislative history may depend upon the vehemence of the proponents of any given "purpose" for the bill or the frequency with which that position is asserted in debate. The attempt to discern the spirit or purpose is so often futile that it ought to be examined only when absolutely necessary.

More importantly, a more insidious use of judicial power may occur in exactly those situations where the statute is clear but where underlying tensions and competing interests

in the legislative branch previously operated to inhibit the full exercise of legislative will. Title VII explicitly prohibited any and all discrimination. To be sure, some members of Congress would have liked to see Title VII embrace voluntary affirmative action even without a showing of past discrimination. Other members would have preferred not to face the issue at all. And, quite obviously, others sought to maintain the status quo *ante*. There is, in short, every reason to expect that statutes that address fundamental issues frequently represent the outer political limit of the legislative will.

What, then, of judicial interpretation that goes beyond that outer limit? If Congress could not resolve issues, beyond flatly prohibiting discrimination in the first instance, there is nothing to suggest that Congress could do it today. And this conclusion applies equally to Congressional ratification or disavowal of the *Santa Clara/Weber* decisions. Bland statements that Congress *could* have overruled *Weber* ignore this political dimension and are a poor source of authority for continuing this exercise of judicial power. In this instance, *stare decisis* is a fancy name for "bootstrapping."

The real question, raised by the dissenting opinions of Justice Rehnquist in *Weber* and Justice Scalia in *Santa Clara*, was whether the text of the statute offered guidance to resolve the issues before the Supreme Court. Had that question been answered affirmatively, the Court would have been faced with the statute's plain terms in prohibiting discrimination. That should have been the end of the inquiry.

To achieve by judicial fiat what could not be accomplished through the legislative process is not only a usurpation of legislative prerogative, it is also contrary to the nature of majority rule. However we may seek to protect a political minority from the potentially harsh imposition of majority will, these concerns are not implicated here. The composition of Congress, the checks and balances provided to the three branches of government, federalism, and the protection of individual liberties found in the Amendments all act to soften this result. Beyond that, majority rule governs. And it governs through the legislature, not the courts. Only when issues are debated in a forum with political accountability can we be sure of achieving majoritarian will.

The official majority will as of 1964 was expressed literally in Title VII. That is to say, the majority was willing to be fair and support some progress in the strides of minorities toward equal participation in the work force, but it was not willing to discriminate against itself to achieve that goal. The *Weber* and *Santa Clara* decisions do a disservice to both Congress and the electorate by depriving each of the impetus so often needed to accomplish the difficult task of passing legislation that addresses great issues.

The result is that instead of Congress debating how and when we will redress discrimination in the work place, the implementation of affirmative action will be left by Congress to judicial resolution. Decisions like *Weber* and *Santa Clara* will, in the long run, allow Congress to shrink from tackling the really controversial issues. If even patently clear statutes can be rewritten, imagine what ambiguity can achieve.

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## The Novel of Ideas by Thomas P. McDonnell

*"Death must be distinguished from dying, with which it is often confused."*

—Rev. Sydney Smith

*The Thanatos Syndrome* by Walker Percy, New York: Farrar, Straus & Giroux; \$17.95.

The rarest entity in American writing is the novelist with ideas—that is to say, one who is capable of writing the ideological novel. Of course, the term is enough to put a chill on what is in fact the novel of intelligence—even, one might add, the novel of intellectuality. The supreme master of the form was Henry James, obviously, whose like we have not seen since his death in 1916. Otherwise, I fear, the American novelist is almost wholly glandular. In serious writing, the most likely practitioners of the form are probably Ernest Hemingway and Norman Mailer. It may be said that John Updike has ideas, however pretentious, but which are all expressed in a deftly controlled glandular mode. Saul Bellow may be our most intelligent novelist and Walker Percy our most purely intellectual. Lest it be charged that we have left them out of something yet again, most women as novelists are almost wholly and everywhere glandular.

It is also peculiar to the case at hand that the Southern novelist is, on the whole, much more intellectual than his northern counterpart. This may clearly be seen, moreover, if we compare Norman Mailer as the prototype northern novelist with Walker Percy as the prototype Southern novelist. While the former is simply anarchistic, the latter has a firmly moderated sense of the history of ideas. Walker

Percy, not only as someone with both a thorough medical background and a passionate interest in semiotics, has written essays which are rather too technically abstruse even for the average well-informed reader. He has, on the other hand, written essays which should become classic examples of the

genre in our own time. In short, the reader may well know when Walker Percy is an accessible writer and when he is not. He is, of course, most accessible in the novels in which he presents the ideas that are most important to him. This is especially so in view of the complexity of his thought which has evolved since the publication of his first novel, the prize-winning *The Moviegoer* (1961), which brought him immediate recognition.

Though some may contend that *The*



Thomas P. McDonnell is a free-lance writer living near Boston.

*Moviegoer* was Percy's *The Sun Also Rises*—that is to say, his most original and perhaps most singular piece of work—it is necessary to identify the body of his novels since then, to suggest why this body of work will no doubt become increasingly important. The titles are as follows: *The Last Gentleman* (1966); *Love in the Ruins* (1971); *Lancelot* (1977); *The Second Coming* (1980); and currently *The Thanatos Syndrome* (1987). Two pairs of these novels deal with same main characters: Will Barrett in *The Last Gentleman* and *The Second Coming*; Dr. Thomas More in *Love in the Ruins* and *The Thanatos Syndrome*. Also, Percy does not play lightly with such obvious references from history as Sir Thomas More (1478-1535), the ultimate layman at bay, and the great English divine Lancelot Andrewes (1555-1626) in *Lancelot*.

What emerges from a reading of Percy's novels since *The Moviegoer* is that Walker Percy has clearly presented to us, though surely not as his primary intention, the most injured Christian psyche in the whole range of Anglo-American fiction at the waning of the century. The subtitle for *Love in the Ruins* is a bitter delectation, "The Adventures of a Bad Catholic at a Time Near the End of the World," with its possible echoes from George Bernard Shaw's invidious little tract *The Adventures of a Black Girl in Search of God* (1932). The loss of traditional values that caused Evelyn Waugh to die of a broken heart, though medical records won't show it, has turned a survivor like Walker Percy into the sole minimalist practicing the craft of the so-called Catholic novel today—minimalist, because Percy deals with essentials of belief that are stripped of all the trappings of mere religiosity.

Percy is far from being a master storyteller. Pages are not turned all that eagerly, except in scenes which are notable for both the tensile strength of their extended dialogues and the tensions of characters seemingly reduced to ideologues on the brink of self-destruction. Scene-reading is in fact the secret of reading Walker Percy, as it is in reading almost any novelist, especially when a given novel itself may on the whole be judged a failure. And yet few failed novels

of first-rate writers are totally irredeemable. Ernest Hemingway's posthumous *The Garden of Eden* (1986), for example, contains some of the most exquisite scenes he has ever written even though the sense of *déjà vu* may all but overwhelm the already initiated reader. The point is nevertheless important.

One of the most powerful scenes pits the beleaguered psychiatrist Dr. Tom More against the equally beleaguered Father Simon Smith, who is ensconced in a 100-ft. fire tower in the Louisiana woods and won't come down. (Remember St. Simeon Stylites?) Literally speaking, it is Dr. Tom More's job to get to the bottom of Father Simon's foolishness.

*The Thanatos Syndrome* is a wonderfully complex novel and has as many reflective surfaces as an expertly cut and polished diamond. Walker Percy can pack pages into vignettes of a few paragraphs. His delineations have an often devastating effect. This may readily be seen in some of the minor characterizations, such as the ex-Jesuit Kev Kevin and ex-Maryknoll nun Debbie Boudreaux, first married, then of course separated. Debbie says of Kev: "The trouble with you is you're still a closet Jesuit." Kev says of Debbie: "The trouble with you is you've turned into the worst kind of man-eating bitchy feminist." After counseling both of them, Dr. Tom More muses sadly:

I thought they did better, looked better, felt better as Father Kev and Sister Thérèse in the old days, and as priest and nun, than as siddha Kev in his new soft Maharishi voice and a NOW Wicca Debbie in her stretch pants. If you set out to be a priest and a nun, then be a priest and a nun, instead of a fake Hindu or a big-assed lady Olds dealer who is into Wicca—this from me, who had not had two thoughts about God for years, let alone sin. Sin?

So much, then, for the Kevs and Debbies of the new progressive church. Where once was solid doctrine, the options now are "in favor of belief in community, relevance,

growth, and interpersonal relations," etc. But even these beliefs will be abandoned. Debbie will become a bookkeeper in her father's Nissan agency and Kev will write successful paperback novels about nuns and ex-nuns, priests and ex-priests. Sound familiar?

At the end, meanwhile, Father Simon will have come down from the fire tower to reach a kind of working agreement with himself and the world. He regains a quiet and unobtrusive level of spiritual confidence—seeing in the apparitions of the Blessed Virgin in Yugoslavia, for example, more evidence for the need of faith rather than anything either spectacular or even notorious. The aesthetic fact remains, however, that the major imprint left by Walker Percy's novels, and especially by this one, is the sense of a thoroughly damaged human nature. Everything in the book is made up of damaged goods, the whole world out of whack, as if redemption itself had been reversed or put on hold. This is problem enough for the moralist, God knows, but where does it leave the novelist? At this point, Percy has produced a brilliantly disturbing set of novels. And yet, we may ask, wither now Walker Percy?

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# Reason and the Ethical Imagination *by Stephen L. Tanner*

*"A perfect democracy is . . . therefore the most shameful thing in the world."*

—Edmund Burke

*Will, Imagination and Reason: Irving Babbitt and the Problem of Reality* by Claes G. Ryn, Chicago: Regnery Books; \$15.00.

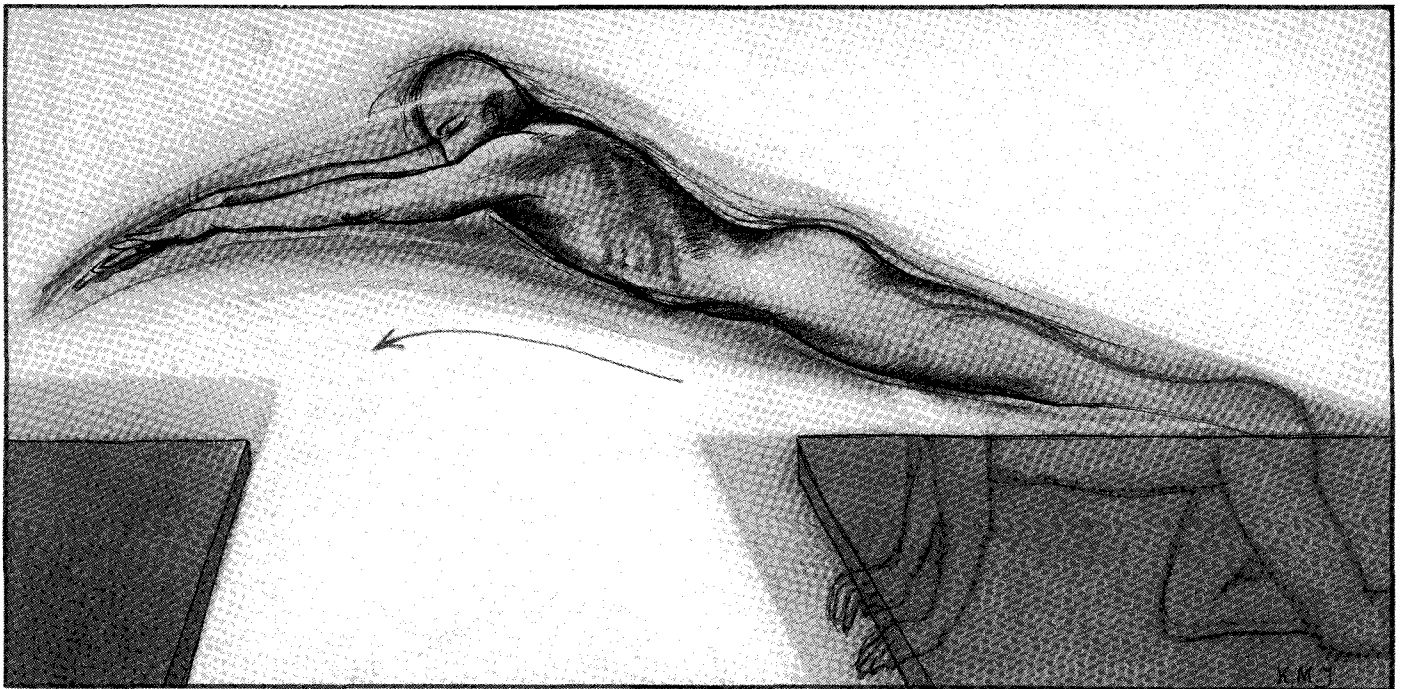
More than 50 years after his death, Irving Babbitt continues to evoke a sympathetic response from minds and temperaments attuned to the ethical world view fostered by classical and Christian thought. Within the last decade, much of his writing

characteristic of our age. For the sympathetic reader of our decade, Babbitt's writing often elicits an assenting nod; consequences that for Babbitt were predictions are for us facts, and the cultural criticism his contemporary detractors found outdated and irrelevant often seems more timely and penetrating now than when it was written.

But no philosopher or critic has all the right answers. Indeed those we value highly often have very notice-

climates change continuously, and even the soundest ideas need adjustment and amplification to retain vitality in the living present. Babbitt's influence has been considerable, even if not always acknowledged, and it seems reasonable to expect this influence to grow as his ideas are reexamined, supplemented, and newly applied. This, in any case, is Claes G. Ryn's expectation.

Ryn is a brilliant and philosophical systematic new conservative voice. Born in Sweden, he was introduced to the writings of Babbitt and Paul Elmer More by his friend and teacher, the philosopher Folke Leander (1910-1981). Russell Kirk's books were also



has been reprinted, and a cluster of critical studies has appeared. His sense of transcendent moral purpose, his dualistic vision of human nature, his concepts of inner check and the law of measure, his distrust of rationalistic absolutes, his recognition of the vital role of will and imagination—all these are perennially appealing to those who are uncomfortable with the naive worship of materialistic rationalism and with the moral relativism

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able blind spots and limitations, and their strengths are inextricably dependent on their weaknesses: They could not have achieved in one area without slighting another. This is particularly true for a generalist like Babbitt, who addresses large issues that spread across disciplinary boundaries. In his literary criticism, for example, he could not have been so insightful concerning the history of ideas and the nature of the ethical imagination if he had devoted himself more extensively to matters of form and aesthetics.

Moreover, cultural and intellectual

part of his extracurricular reading while he was a student at the University of Uppsala. Several years later, Kirk advised him about coming to the United States. Ryn realized, partly from the experience of Folke Leander, that his rejection of positivism and moral relativism, which held sway in Swedish academic circles, would obstruct a scholarly career in his own country. He completed his graduate study in the United States and is professor and former chairman in the department of politics at the Catholic University of America. He is the author of *Nykon-*

*servatism i USA*, published in 1971 in Sweden, and *Democracy and the Ethical Life* (1978). He is coeditor of *Irving Babbitt in Our Time* (1986) and has published significant articles in scholarly journals. His writing has centered on large philosophical and literary matters rather than on practical politics.

*Will, Imagination and Reason* is not simply a study of Irving Babbitt. The motive underlying the book is to revise and supplement Babbitt's ideas in such a way as to provide a basis for a new approach to the epistemology of the humanities and social sciences. Ryn began this study in collaboration with Folke Leander. Both men were keenly interested in More and Babbitt and believed that the appreciation of these writers would be enhanced by systematic philosophical study. Leander began the task with *The Inner Check* (1974), which brought certain aspects of Croce's philosophy to bear on a key tenet of More's thought. The argument: Croce lacks More's ethical sensitivity but provides a philosophical rigor More lacks. *Will, Imagination and Reason* supplies the same Crocean supplement to Babbitt's thought. It is Ryn's book, marked by ideas and suggestions provided by Leander before his death in 1981.

Several primary ideas shape Ryn's thought. They are recurrent in his previous writing and animate this book on Babbitt. Most fundamental is the idea that "life is subject to a universal moral order which is accessible to philosophy." The moral order he has in mind is essentially that of the enduring Western traditions in ethics, particularly those of Christianity and ancient Greece. But Ryn advocates no simple return to ideas of the past: "A reconsideration of older traditions means their rearticulation and development in new intellectual circumstances." He has in mind a dynamic traditionalism in ethics based on "a creative, discriminating absorption of the moral insights of the past." He argues for "a value-centered historicism," an approach that acknowledges the existence of a universal moral order while at the same time fully recognizing the historical nature of knowledge (historical in the sense of continuously changing and developing in time and circumstance). His essay

on "Knowledge and History" is the fullest exposition of this notion of thought as continuous activity aiming at truth but never static, "a dialectical straining towards, never the achievement of, perfect clarity." According to this idea, a written work is, in a significant sense, always unfinished: "A given treatise is a report on a continuing process of inquiry and is out of date even before it is finished." Ryn repeats this argument in *Will, Reason and Imagination* partly to explain and justify his rearticulating and complementing Babbitt's thought.

Another of his primary ideas is that modern conservatism has been in some measure debilitated by a tendency to fall back too quickly on intuition. Men like Babbitt, More, and Peter Viereck (Ryn has published a comprehensive essay on Viereck) share a suspicion of narrow rationalism, of theory, ideology, and systematic logic. They favor experience, common sense, will, and imagination. Ryn believes their emphasis on intuition tends toward an unjustified abandonment of reason to their opponents. He concedes that the direction of our lives is determined by will and imagination, but insists that a type of reason is inherent in the very operations of these faculties. Therefore, his fundamental assumption is that "will, imagination and reason can be adequately understood only in relation to each other." Being inclined toward and trained in technical philosophy, Ryn believes that any successful intellectual effort to restore a sense of man's transcendental moral purpose must grapple with fundamental philosophical problems, particularly those of epistemology. Moral purpose needs philosophy, and intuition needs the complement of reason.

But what kind of reason? Reason can be understood in various ways. Ryn agrees with Babbitt and like-minded persons about the limitations and abuses of the reifying rationalism of positivism, the abstract system-making of metaphysical rationalism, and the pragmatic rationality of natural science and other experimental sciences such as psychology. These, besides being inadequate for explaining the rich complexity of human existence, tend toward a dangerous exclusivity. Ryn posits another kind of reason, which he calls "philosophical

reason." The term is scarcely adequate because it is not distinctive enough, but it is probably better than a conspicuous neologism. He intends the term to refer to the perception of the duality of human nature that Babbitt and More constantly emphasize. They call it an "intuition," but Ryn, taking his cue from Croce and Leander, understands that "the *organon* for observing immediate, intuitive experience is a kind of reason." Philosophical reason operates dialectically. Human existence is, in Babbitt's words, a "oneness that is always changing," and philosophical reason is the perception of the simultaneous existence of a universal moral order and the historically conditioned state of human knowledge.

The principal argument of *Will, Imagination and Reason*, therefore, is that Babbitt's work is significantly valuable for understanding and dealing with the problem of reality, but it needs to be supplemented by elements of systematic philosophy provided by Croce's *Logic as the Science of Pure Concept* (1917). Babbitt provides the wisdom and probing insights; Croce supplies the system and clarity of technical philosophy. The central thesis presented is that:

Knowledge of reality rests upon a certain orientation of the will and upon the corresponding quality of the imagination (intuition) that the will begets. Reason is dependent for the truth and comprehensiveness of its concepts on the depth and scope of the material it receives from the imagination. Babbitt's important contribution is the doctrine that only the highest form of the imagination—which he regards as sustained and anchored in ultimate reality by ethical will—pulls man toward a comprehensive and proportionate view of life.

Anyone who is sympathetically disposed toward Babbitt will find this book engaging and stimulating. Ryn reconsiders Babbitt's ideas with admirable philosophic intelligence and sophistication. His concept of philosophical reason may take a natural place alongside Babbitt's familiar concepts of dualism, inner check, law of measure, and ethical imagination.

## Study in Scarlet by Joseph Schwartz

"The Western custom of one wife and hardly any mistresses."

—H.H. Munro

*Roger's Version* by John Updike,  
New York: Alfred A. Knopf; \$17.95.

*Roger's Version*, John Updike's latest novel, can be understood best if seen in intimate and serious connection with Nathaniel Hawthorne's *The Scarlet Letter*. First, the cast of characters: Hester (Esther), Arthur Dimmesdale (Dale Kohler), Roger Chillingworth (Roger Lambert), and Pearl (Paula/Poopsie). The setting is New England. In both narratives, adultery is the central incident, and in both Roger must play detective to discover it. In both stories, science and religion/theology are or appear to be locked in combat. Although the differences between Updike and Hawthorne are much more important than the likenesses, they would make no sense without the likenesses. In short, Updike has gone back to his finest novel, *The Centaur*, in providing a specific

literary pattern from the past for interpreting the present (the method of continuous parallels was pointed out as the literary way of the future by T.S. Eliot in his review of Joyce's *Ulysses*). Like Eliot himself in *The Waste Land*, Updike emphasizes the past as being the backdrop which gives meaning to the otherwise fragmentary and incomprehensible present.

In Updike's version of *The Scarlet Letter*, the characters are greatly diminished (as well as significantly altered). While both are moral outlaws, Esther has none of Hester's nobility. Dale, though a Christian believer like Dimmesdale, has none of Dimmesdale's dignity, nor does he suffer as the Puritan minister did. Roger, like Chillingworth, wishes to punish the partner of his wife's adultery but lacks Chillingworth's humanity gone wrong. They are, these moderns, what they have made of themselves in response to the times—people plucked out of a grab bag limb by limb. The emotions of the narrative are also diminished, especially love and passion.

After all, the Scarlet "A" stands for *amor* as much as it does for adulteress, angel, and admirable. The magnificent fervid forest scene between Hester and Dimmesdale is reduced to mere lust. Since Roger has been divorced from Lillian, Esther is his second wife. He "understands" the betrayal of the marriage contract, having been there, so to speak, before Esther and Dale cuckold him. In his novels, Updike has long debated whether marriage is a sacrament or a contract; Roger clearly regards it as a contract. Hence, there is no scarlet letter in *Roger's Version*—adultery being so common as to have lost its meaning.

The major difference between the two novels is in Updike's shift away from Hester (and Hester and Dimmesdale) to Roger and Roger's debate with Dale; the implicit contest between science and religion is made explicit and becomes the principal subject of *Roger's Version*. In a neat turn, the roles of the contestants get switched: Roger, the weary cynic, is the (ex) minister and professor of theology, and Dale, the believer, is the gifted scientist. His object is to demonstrate the existence of God from existing physical and biological data, using the computer—"the new hymn to the majesty of God." Roger, a hater of intellectual Towers of Babel, is "determined to crush" him. Dale may or may not

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have lost his faith when the battle is over but has clearly been defeated on the field. In playing the Devil's advocate, Roger, like Chillingworth, turns himself into the Devil but unlike Chillingworth suffers no final penitence. Paula (Pearl), the truth-teller, calls him the "Bad man"; Verna (Spring), the niece he debauches, says that he is evil.

Readers of Updike's past work know how important Karl Barth is to him, and Barth is central to this novel, perhaps in a different context. Roger claims initially that he has been a hard-core fideist since the age of 15 and that he has buried his beliefs to keep them safe. He understands Barth, his "own rascally pet," to mean that only by placing God totally on the other side of the humanly understandable (*totaliter aliter*) can final safety for Him be secured. (Does God need our protection? He comes to us as He chooses in revelation and redemption; "There is no way from us to God." By his nature man is flesh and determined to perish.) Barth "would have regarded Dale's project as the most futile and insolent sort of natural theology." Man has freely cast himself into chaos through sin.

Dale's answer to Roger's Barthian view is crucial: "Your God sounds like a nice safe unfindable God." The hopelessness of all human activity that flowed from the concept of the wholly Other is the perfect rationalization for Roger to do exactly as he pleases. It pleases him to respond to his Barthian *gestalt* in two curiously compatible ways. One, he commits deliberate earthly abominations to show how infinite the chasm is between Heaven and earth: incest, abortion, adultery, pornography, the corruption of the innocent, the destruction of another's faith. Because he is so totally self-centered, the incest motif is emphasized in his sexual relations with his niece and, more importantly, in his passionate desire for Edna, his half-sister—more a kind of twin, since their father planted them in two different women at about the same time. Two, Roger is agnostic and in this most resembles Satan. He is afraid of the earth and hates life, an "abortive to-do." He values his escape from the ministry and from "the common incurable muddle and woe." He does

not want his "hot Barthian nugget" dragged into the light of day.

Roger is an utterly hateful man, singular among Updike's characters. He confesses to having a dark side (is Edna the light side?); when angry he generates smoke. To him the heretics are much more pleasant, agreeable, and personable than the orthodox. Every living creed is grotesque. Dale accuses him of being a member of the Devil's party, and he certainly fits Dale's description of the Devil as doubt, the one who makes us "spurn the life we've been given." The sin of abortion looms large in the text, particularly affecting Updike's diction. Anyone (including God) who tries to explain the meaning of life is an "old bluffer." Roger destroys everyone with whom he comes in contact, except Esther, who turns out to be quite a surprise to him. The environment, as he describes it, is constantly gray, overcast, and threatening. None of the theologians at the university can be described as believers; those we know anything about have the morals of randy tomcats. The major question of the novel is expressed in one of the four epigraphs. Was it waste, this pouring of ointment by the woman of Bethany on the Savior, in an acknowledgment of his death and resurrection (Matthew 26:8)? While the book is consciously framed by holy days (Thanksgiving, Christmas, Epiphany, Lent), there is no attention paid to Easter. The *New Testament*, with its persuasive picture of our warm, caring, charming, human God might as well not exist as far as Roger is concerned. Barth is his Scripture; he learns from him that all human activity is hopeless and that Kierkegaard's new hymn of love to the infinite majesty of God confirms the chasm between Heaven and earth. For all practical purposes, the God of Scripture ceases to be. The world belongs to the great prince Satan.

This is Roger's version, and it must remain clear in the reader's mind that Roger has been doing all the talking. Is it Updike's version? A link between the two can be drawn. Both are brilliant and clever. Both make the same diagnosis of the terrible failure of liberal modernism. Both use diction that is awesome in its variety and texture. Both are drawn to Karl Barth, who



appears to be central to their religious thinking. It seems that the claim that Updike is a Christian novelist is on the line. Despite his ambiguous stance toward marriage and despite his continuing addiction to pornography, the claim is a real one: He has never been very Incarnational in spirit, but he has never been able to let God alone, coming back to Him repeatedly, almost Jacob-like as he wrestles . . . with what? Is this book a watershed, as *Marry Me* was?

But in the final instance, Updike and Roger are not alike. *Roger's Version* is one of Updike's two or three most important novels because in it he has taken on the Devil and exposed him for what he is: cruel, clever, able to quote Scripture (Barth), cynical, and world-weary beyond bearing.

On the other hand, if Roger is the Devil or of the Devil's party and the Devil is the Father of Lies, what are we then to make of this entire work? Perhaps Dale and Esther are not at all like Roger's version of them. And so for everything else. If Roger is from start to finish an unreliable narrator, the reader finds himself in a pretty kettle of fish. Or is that in itself the key? Esther's version, in that case, Dale's version, and more to the point, Updike's version would be considerably different in the way each would address the question in Matthew, "To what purpose is this waste?"

# Planned Obsolescence

by Tommy W. Rogers

*National Economic Planning: What Is Left* by Don Lavoie, Washington, DC: CATO Institute; \$9.95.

Dr. Lavoie, assistant professor of economics at George Mason University, argues that planning—whether Marxism, economic democracy, or other designation—must inevitably disrupt social and economic coordination. The problem of how to effectively use knowledge in society to produce the goods and services which the public wants cannot be solved by central planning and control. Lavoie takes on the “radical” spokesmen, such as Robert Reich, Tom Hayden, Michael Harrington, and others who speak for a controlled economy, and makes a powerful argument that “the ultimate [vocalized] ends of the radical movement will almost certainly be frustrated if national economic planning is chosen as the means.”

Lavoie begins by directing attention to the problems arising from the conflict between the public and private spheres of social life. The answer is not to extend the democratic public sphere at the expense of the competitive private sphere. The extensions of the power of the government to the economic sphere have not enhanced but have drastically reduced its democratic features. At the same time, they have increased the use of coercion in the necessarily competitive struggles among the members of society. The author then discusses coordination in society, followed by analysis of various proposals for comprehensive and supposedly noncomprehensive economic planning. He concludes that it is the competitive market itself which is the primary source of knowledge about which goods should be produced and which production methods are most feasible. The social function performed by a particular complex of legal and market institutions makes them indispensable tools for the solution of certain unavoidable problems involved in the production and allocation of scarce resources.

Lavoie is a self-described “radical” as opposed to a conservative critique.

He largely grants advocates of planning the presumption that the origin and essential nature of their ideas are radical, that theirs are sincere attempts to expand the power of the public against privileged elites. He analyzes planning proposals as misguided attempts to attain noble ideals. What Lavoie has provided is a revisionist interpretation of the effects of planning. The failure of radicalism is not in its call for a better society, but in its specific utopian vision which “happens to be completely unworkable if carried to its logical conclusion, and essentially reactionary if not.”

Lavoie argues that the right’s militarization of the economy and the left’s industrial policy or national economic planning are fundamentally equivalent both to one another and to the worst of the decaying regimes of the present world. He maintains that whether “its aim is military or not, its method of organization most certainly is. And whether this militarization of the economy is left naked (Hitler) or is dressed up as progressive reform (Baruch), Marxist Communism (Stalin), or free-market ideals (Reagan), its true nature remains the same: it is national economic planning.” He feels that modern conservatism by

... its largely rhetorical devotion to the free market and its actual policies of construction of a permanent war economy ... helps perpetuate the myth that it is the policies of free markets rather than those of planning that have been obstructing peace, and that it is an existing market economy rather than an established system of comprehensive planning which is responsible for our current economic distress. In fact, Reagan’s rapid militarization of the economy, in spite of the rosy pictures of free-market economics ... is the very essence of national economic planning.

Few people, Lavoie writes, remember the Jeffersonian ideals that gave birth to the American Revolution. These ideals once called for a basic policy of nonintervention, both in the lives and economic activities of the American

people and the political affairs of other governments. This country, he asserts, was born in the hope of ending foreign military entanglements. These ideals have been steadily eroded:

The United States has debased the dollar that was once the symbol of monetary stability. It has taxed its productive economy to the point where the rapid growth once taken for granted has been stifled. It has ... sent its marines throughout the globe pretentiously acting as world policeman. It has earned the hatred of millions of oppressed people whose only contact with it is through its support of vicious rulers from Somoza to the Shah of Iran to Marcos. A couple of decades ago all that remained around us of the American Revolution’s original noninterventionist vision seemed to be entombed in the inscriptions on several buildings in Washington.

Radicals, Lavoie asserts, have let their past belief in comprehensive planning,



because of its utter failure and their unquestioned aversion to free-market institutions, turn into an irreconcilable conflict with their own goals. In their opposition to unregulated competition and desire to avoid monopoly, they have endorsed policies of government-enforced and protected monopolization. Their restoration to a standpoint of true opposition, he writes, requires that they finally abandon planning in all its guises and reformulate a radical version of the free market and a free society.

Tommy W. Rogers is a sociologist in Jackson, Mississippi.



## Letter From the North Pole

by William R. Hawkins

### Counterrevolution in Toyland

Among the hottest selling items in toy stores across the land is the "G.I. Joe" series of military action figures. Since the "Star Wars" movies, war toys have made a strong comeback from their depressed levels during the "antiwar" 1970's. Model figures based on "Star Wars" characters proved so successful that others quickly entered the market of both science fiction and conventional conflict—everything from warrior robots to "Rambo." However, G.I. Joe is by far the most ambitious line, backed by a syndicated daily TV cartoon series and two monthly Marvel comic book series.

G.I. Joe is also a survivor. Some two decades ago, Joe appeared, looking like Barbie's boyfriend, Ken, after basic training. This was not an entirely successful format, little boys being none too keen about joining their sisters in playing with dolls. But in the 1970's, Joe's format changed. He was reduced in size to fit the toy rather than the doll market. He was also reduced in status to fit the political mood. He grew a beard and quit the military. He undertook peaceful missions of exploration or went about rescuing accident victims. But Joe found, as did the rest of the country, that it was difficult to keep fit while remaining a pacifist. He seems much happier now that he is back in uniform packing an Uzi or driving a tank instead of pulling some errant skier out of a snowbank.

Toys can reflect swings in the larger public mood. They say also influence that mood. This is something that liberals, with their constant harping against war toys, have paid more attention to than have conservatives, the theory being that a sissy at age 10 will

be a wimp at age 30. Yet, war toys are ever popular among youngsters, thus confounding the dreams of liberals since Rousseau. On this score, no one has improved on Saki's story "The Toys of Peace" in depicting a basic trait of human nature.

G.I. Joe appears on the surface to be simply a commercial venture. No angle has been overlooked that might make money. Not only is there a staggering array of character figures and vehicles running from motorcycles to mobile artillery, jet fighters, and even an aircraft carrier (the latter retailing for around \$100 sans aircraft and crew); there are also lunch boxes, coloring books, bars of soap shaped like hovercraft, and an educational magazine. But embedded in this barrage of products is a message with cultural and political import.

There are some 60 individual members of the G.I. Joe organization, which is billed as an elite multiservice antiterrorist/special missions unit. The unit's members come from all racial and ethnic groups. There are even three female troopers. But loyalty, not mere equality, is the point. Whatever their background, the Joes are American soldiers first.

Each soldier has a background history, and it is in these histories that a definite value pattern is found. "Airborne" is the son of "oil-rich Nava-

hos." He earned a law degree but quit private practice to become a paratrooper because he would "rather jump out of airplanes than write legal briefs." "Cover Girl" was a successful New York fashion model until she "grew disillusioned . . . and enlisted to put new direction in her life." Her specialty now is armor. "Mainframe" was a computer genius from MIT and had a high-paying job in Silicon Valley, but he chucked it all to join the Marines. "Footloose" dropped out of college and "became quite weird for three years" until it hit him that his existence had no purpose. He enlisted in the combat infantry. "Flint" was a Rhodes Scholar who became "bored with the Groves of Academe." And the list goes on.

In each case, a particular aspect of modern American society is found shallow and unfulfilling. Usually, it is the identification of success with material reward, the plague of the "me" generation, that is rejected. But rejection is not enough. "Footloose" finds in a mere antimaterialism another void. Only by putting their talents to work in the defense of their country do they find true satisfaction. The discipline of military life does not destroy their individuality; it only completes it by enabling them to use their unique talents as part of something larger than themselves.

The Joes' main enemy is Cobra, a

### BOOKS IN BRIEF—FOREIGN AFFAIRS

*Pravda: Inside the Soviet News Machine* by Angus Roxburgh, New York: George Braziller, Inc.; \$19.95. A solid antidote to sufferers of glasnostitis, this compact book provides an interesting history of the Communist Party newspaper, *Pravda*. About half the book contains excerpts from *Pravda* over the last five years. These are a collection of boring lies, but so is the newspaper. The tales of the 10 years of Nikolai Bukharin's editorship in the 1920's is especially interesting as are the examples of doctored photos.

*USSR Foreign Policies After Detente* by Richard F. Staar, Stanford, CA: Hoover Institution; \$13.95. This outstanding updated edition is highly factual and reviews all of the major determinants of USSR foreign policy. Staar includes ideology, government structure, propaganda, espionage, military strategy, and foreign trade, and he reviews regional policies and problems. The book has numerous tables of economic, trade, military, and personnel data, with a lengthy bibliography.

"ruthless terrorist organization determined to rule the world." It is a rootless evil identified with no particular country or ideology (though most of its leaders are obviously foreign). Its agents can spring up anywhere. There is a strong antidrug message present in that many of Cobra's schemes involve the use of mind-control chemicals to bend honest citizens to their will. One of Cobra's leaders is even called "Dr. Mindbender."

For those who object to imaginary evils when the U.S. already has enough real enemies, there is a Soviet commando group that the Joes occasionally battle called the "October Guard." The Joes and the Guard dislike each other but sometimes are forced to cooperate against Cobra. However, the Guard invariably double-crosses the Joes in the end. It is thus possible to see the origins of the Cold War in these three-sided conflicts.

Although Cobra is a private conspiracy up against an arm of the U.S. military, the Joes must always fight outnumbered and outgunned. This is the standard predicament of heroes. It wouldn't be a challenge otherwise. However, Cobra constantly cripples itself. Its leaders battle among themselves and will even sell each other out to the Joes to gain some political advantage within the Cobra hierarchy. Many are mercenaries fighting only for plunder and will cut and run at the first sign of a reverse. In contrast, the Joes are loyal to the flag and to each other. They are willing to die for their cause. Again, the lesson being taught is obvious. Patriotism defeats faction and self-interest. The children may learn this before the politicians do. Cobra is a better enemy for the acting out of this morality play than would be the October Guard or some other clearly recognized foreign or ideological foe. It enables the Joes to confront and defeat elements that plague our own political culture.

G.I. Joe portrays an idealized American response to national security threats. Even the commander's name, General "Hawk," is symbolic. The lyrics of the television theme song claim that "Wherever there's trouble, G.I. Joe is there" and that "He never gives up; he'll stay til the fight's won"—statements that have not been

true since the Vietnam War. Indeed, so pointed are the jabs that it is difficult not to believe in the existence of an active cell of counterrevolutionary elves in the workshop of Hasbro, Inc., the toy company that produces G.I. Joe. One episode of the cartoon series even featured a reporter claiming that there was no Cobra threat, Cobra being only an excuse to get more money allocated to the military. The reporter's research assistant turned out to be a Cobra agent.

Euripides believed that "Courage can be taught as a child is taught to speak." So can other values and the earlier in life the better. Earlier generations had Hopalong Cassidy and Roy Rogers, Gary Cooper and John Wayne at the Saturday matinee to provide examples of heroes and lessons about law and order. But the Western has lost its appeal in this "high-tech" age. Yet, after a decade of self-flagellation and antiheroes in the 1970's, there is a need for "a real American hero" to lift the spirits of the young. G.I. Joe helps meet that need.

*William R. Hawkins is the economics consultant to the U.S. Business and Industrial Council and a columnist for the USBIC Writer's Syndicate.*

## Letter From the Lower Right

by John Shelton Reed

### *Covering Dixie Like the Dew*

Time for another round-up of Southern news you may not have seen. Let's start off slow, with this item from the *Chapel Hill (NC) Newspaper*, back in February.

Arnold D. Rollins of Rt. 5 Box 372, Chapel Hill, reported a hit-and-run accident on Columbia St. and Rosemary St. at 11:30.

According to police reports, a pedestrian ran into the corner of Rollins' tow truck. Rollins says he was heading north on Rosemary at about 20-25 mph when a boy jumped out of a car stopped at the intersection and ran into the fender of his

truck.

Rollins said that the victim did not stop, but spun around, fell, and then hopped away from the accident.

No damage or injuries was [sic] reported.

I told you we do things differently down here.

\* \* \*

How about this tidbit, from the Mar-seilles of the South: The jury that acquitted Governor Edwards of Louisiana on fraud and racketeering charges stayed at the Avenue Plaza Hotel in New Orleans. When they checked out, according to the hotel's owner, they took with them 24 towels, valued at \$200.

\* \* \*

Next door in Mississippi, during archery season (which runs for about a month before the start of gun season) even the use of crossbows is forbidden. But last year 4'3" Kenneth Hodge pointed out that the law has its, ah, drawbacks. Hodge's arms are too short to draw a 28-inch arrow. Now, Mississippi has seldom been on the cutting edge of equal-opportunity legislation, but state representative Will Green Poindexter responded to Hodge's complaint with a bill that would have allowed dwarfs to use crossbows. I don't know if it passed or not, but I think it's a great idea, and while they're at it they ought to ask them to wear little green suits.

\* \* \*

And speaking of wildlife: the floods of 1986 in Jefferson County, Arkansas, were not without their silver lining. According to the *Arkansas Times*, one man whose home was submerged for a weekend strung a trotline across his front yard and caught more than three hundred fish.

\* \* \*

The same journal reported that a filling station near Sheridan, when chided about a sign that read "Mechnic on Duty," changed it for one that said "Mechanick on Duty." When told by a passing busybody that was wrong, too, its proprietor replaced it with one that read: "Broke Cars Fixed."

\* \* \*

A Mississippi correspondent sends a marvelous advertisement for South Central Bell. "KEEP UP A SOUTH-

ERN TRADITION," the ad suggests. "VISIT WITH YOUR FOLKS THIS SATURDAY." "Visiting is a favorite pastime in the South. Southerners love to talk." Announcing cheap weekend rates for in-state calls, it goes on: "This Saturday, swap stories. Share a secret. Visit with your folks. It's a custom worth keeping."

Amen to that, I say, but my man in Mississippi spells out the irony: "Who would have dreamed that the phone company—corporate America, technology itself—would become an institution keeping alive the Southern identity?"

\* \* \*

But I don't know—can the South survive this: The *Charlotte Observer* reports that households in Orange County, North Carolina, home of your servant and the University of North Carolina, are more likely to subscribe to the *New Yorker* than households in New York City.

And I have it on good authority that the mother-and-daughter country music singers Wynona and Naomi Judd are actually named Christine and Diane, respectively.

\* \* \*

Of course the big news of the past year has been the Jim and Tammy and Jerry and Jimmy imbroglio, which gave rise to a good deal of humor, most of it unprintable in a respectable magazine like this one. It shouldn't be surprising that the best jokes, like their reverend subjects, came from our neck of the woods. To have sacrilege you first need orthodoxy, and anticlericalism is found in priest-ridden societies, not secular ones. A certain irreverence—or at least skepticism about institutional religion—is a Southern tradition as well-established as evangelical Protestantism itself. In "Long-Haired Country Boy," for example, Nashville's Charlie Daniels makes it plain that he doesn't doubt the literal truth of the

Bible, but he quite explicitly doubts the bona fides of the TV preacher who "Wants me to send a donation / 'Cause he's worried about my soul." And Ray Stevens swears that his song "Would Jesus Wear a Rolex on His Television Show?" was written by Chet Atkins before the PTL scandal broke.

Combine Southerners' inherited distrust of prelacy with trickle-down Aquarianism from the 60's, and you get some truly bizarre results—like the local boogie-woogie man who bills himself as "the Reverend Billy C. Wirtz, High Prophet of Polyester, Director of the First House of Polyester Worship and Horizontal Throbbing Teenage Desire and Our First Lady of the White Go-Go Boots Worldwide Love Ministries, Inc." Would anybody from Scarsdale have the slightest idea what *that* is all about?

\* \* \*

Every time I start to wonder if the South is blanding out, I run across

## REVISIONS

### *Everything Excellent*

Legal scholarship sometimes appears to be a contradiction in terms. If the Supreme Court follows election returns, legal philosophers and historians are even more subject to ideological currents and the tides of history. This propensity to propaganda may at least partly explain why so much earlier writing on legal issues now seems hopelessly antiquated. The legal views of Bentham, Austin, and Kelsen strike an intelligent reader as historical oddities, and it is hard to believe that so much intelligence and energy should ever have been wasted on the Investiture controversy.

There are, of course, exceptions. Blackstone on the common law is still fascinating, and Maine's *Ancient Law* has never been surpassed, despite all the advances in our knowledge of Roman law. Like his contemporary Fitzjames Stephen, Maine was a liberal Whig who was increasingly drawn to conservative positions largely on the strength of his own research. In our own times, Raoul Berger has un-

dergone a similar process of conversion, although not so much to conservative political positions as to what used to be the conservative view of the American Constitution.

In *Federalism: The Founders' Design* (Norman and London: University of Oklahoma Press), Berger mounts a devastating attack on the forces of judicial activism and loose construction. Patiently sifting the opinions of the Founding Fathers—including Marshall—the retired Yale law professor conclusively demonstrates that the current intervention of the federal courts has no warrant in the Constitution. Neither the commerce clause nor the "general welfare" provision of the Constitution can be legitimately used as the basis for an activist Court, and—what is more—the Founders explicitly declared to the contrary. Upon a thorough review of the evidence, Berger concludes that the states rights interpretation of the Constitution is the only valid view and that there is no alternative to the highly unfashionable notion of "dual sovereignty," that is, the recognition that both the states and

the federal government are sovereign in their separate spheres.

As an aid to understanding the evolution and seriousness of Berger's thought, a new volume, *Selected Writings on the Constitution* by Raoul Berger (Cumberland, VA: James River Press; \$29.95) is particularly timely. This handsomely produced edition is the first book to be issued by the James River Press, the publishing arm of The Center for Judicial Studies presided over by James McClellan. For years the Center has been fighting the good fight for judicial restraint, and its entrance into the publishing business could not have been better timed—the year in which the Senate of the United States celebrated the destruction of the Constitution by lynching Judge Bork. Berger's papers are the best possible antidote, not only to the tyranny of Harvard law but also to the pseudo-philosophizing of professors like Ronald Dworkin, whose every book and article is designed to consolidate the bureaucratic stranglehold now exercised on the American people. (TF)

something like that—or this splendid story, sent my way by Laurie Hibbett of Nashville (whom regular readers will recall as a runner-up in our “Poetic Gems” competition of a while back).

Seems there was something of a parking problem last June in Estill Springs, Tennessee. It was caused by several thousand people who came to see the face of Jesus revealed on the side of a General Electric deep-freeze located on the front deck of Luther and Arlene Gardner’s mobile home. What local journalists took to calling “Jesus-on-a-freezer” appeared each night when the Gardners’ neighbor turned on his porch light, until said neighbor tired of devotees dropping film wrappers in his yard and removed the light. At last report, the Gardners were thinking about moving their home and their freezer to a new location and setting up their own light. (And people thought Flannery O’Connor made this stuff up.)

The Estill Springs apparition naturally occasioned jeers from secular humanists, of which even Middle Tennessee has a few. According to the *Nashville Tennessean*, one Audrey Campbell performed her song “Porch Light Jesus” to laughter and applause at the Unitarian Universalist First Church of Nashville. “Some people get the Shroud of Turin and some get a freezer,” she explained. “You make do with what you’ve got.” Ms. Campbell reportedly hoped to sign a recording contract.

*Tennessean* news editor Dolph Honicker poked fun, too. He claimed the face was that of either Willie Nelson or the Ayatollah Khomeini, and said he could also make out a large, slanted capital-letter N and the letters *v r y* or *v k y*—in either case, he admitted, a message that was Greek to him. But Honicker had the grace to observe that the Gardners were behaving admirably. At a time when everybody from Jim Bakker to a Unitarian folksinger is figuring how to make a buck off of simple faith, all the Gardners wanted was to share freely what they believed they had been given. No parking fees, or lemonade stand, or tee-shirts—just an invitation to come and marvel at this marvelous thing.

And, as Mrs. Hibbett wrote, “There is an awful sincerity about the lady

who owns the freezer that makes it seem sinful to ridicule this small claim to fame, perhaps the nearest thing to achievement she’s ever had. We Bible Belters—and I do not use the phrase pejoratively—have a certain zaniness that goes with the territory. She’s nearer to me religiously than a whole heap of seminarians wining and cheeing up there at [the Episcopal seminary at] Sewanee.”

Luther Gardner, told of Ms. Campbell’s song about his freezer, said simply: “This is something from God. It’s not something for people to make fun of. I’m sorry. It’s just not the right thing to do.” He’s right, of course—at least about our snottiness.

And just think: if God really did manifest Himself on a major appliance—well, let’s just say that He has a puckish sense of humor I hadn’t suspected, and He isn’t making it easy for us smart alecks.

*Despite writing this column for Chronicles every month, John Shelton Reed was recently elected president of the Southern Sociological Society.*

## Letter From the Heartland

by Jane Greer

*It’s 10 A.M. on a School Day—Do You Know Who Has Your Child?*

Americans generally agree that our public schools are not what they should be, but the strongest resistance to improvement comes from the jokes some people refer to as “teachers’ unions.”

Take the strange case of a Minneapolis nonprofit corporation, Public School Incentives (PSI), which has proposed some interesting measures for public schools. PSI’s founder, Ted Kolderie, says that one of our biggest problems is that we don’t give teachers any *motivation* to excel: no money and no appreciable amount of autonomy. In old-fashioned free-enterprise terms (and the brevity necessary here doesn’t do justice to the ideas), he suggests that we allow teachers to operate as the professionals we expect them to be, as

free agents in what he calls “private practice,” who contract with various schools (rather than working *for* one school) and have control over curriculum, methods, and aids, colleagues and compensation.

He’d also like to see students and their parents have the chance to choose among public schools and school districts, a luxury now available only to people with money. Under such a system, “Every school will become a school of choice,” Kolderie writes in a public memo. “With choice *among* schools there can be more coherence *within* schools. Schools will be more responsive. And parents and students will begin to share with the schools the responsibility for performance.”

Under his proposed system, a school—and the teachers in it, individually—will be “at risk as to performance.” If the school is bad, parents can easily move their kids to a different one. And if enough dissatisfied parents take their kids out of Mr. Jones’s French class, Jones-the-free-agent’s salary will decrease proportionately, and he’ll either improve or quit teaching. Teachers’ salaries, under PSI’s plan, would be determined by class size (reflecting the quality of their teaching) and by their use of time and materials budgets.

Ruth Anne Olson, a self-employed educational evaluator and program designer who had been working with PSI, started her own business last year. Private Practice Advisors has, for example, helped interested teachers develop a contract with the Shrine Hospital in Minneapolis, teaching kids in grades K-12 who are long-term patients there and whom the local school system could not or would not take on. Other private-practice programs are being designed or are already in operation in Minnesota and Wisconsin classrooms.

But the most daring program Olson is working with may be the one in North Branch, Minnesota, where superintendent of schools Jim Walker proposed in the summer of 1985 that two fourth-grade teachers be responsible for teaching 90 children. They would receive the same budget as usual, would have to comply with all the district’s curricular and instructional policies, and would be evaluat-

ed like all the other teachers in the district. Parents, however, could choose to enroll their children in, or withdraw them from, the teachers' class, and the teachers' compensation would reflect those changes. Walker left all other options open. The teachers could, if they wanted, use part of their budget to pay aides or specialists in music, art, and phys. ed. They could buy materials from the district or elsewhere. They could, in short, spend their budget as they thought appropriate.

It would be logical for the teachers' unions to turn handsprings over such a proposal, which removes any arbitrary ceiling in teachers' pay, increases teachers' professional prestige, and generally advances the concept of giving teachers the freedom to do what they're supposed to do best. But *because the teachers' unions objected to it*, the brave experiment in North Branch never took place during the 1985-86 school year. Eventually the school board (which had liked Walker's plan) and the union compromised on a more traditional two-year version during 1986-87 and 1987-88. One major change, an important deviation from the original private-practice concept, was that the teachers were not allowed to profit monetarily by increased class size and smart budget decisions; they simply receive the district's usual salary for their level, and their budget is decreased by a like amount. According to Ruth Anne Olson, *the unions' objection to Superintendent Walker's proposal was not that the three teachers might make less than other teachers at their level but that they might make more.*

The National Education Association (NEA), whose 8,000 members make it the nation's largest teachers' union, meets every year, and they met this July. Unworldly parents might expect that they spent their four days in Los Angeles discussing how to increase teacher responsibility, pensions, and classroom success, since NEA President Mary Hatwood Futrell has sworn to use the NEA to help elect a Democratic "pro-education" president after she boots Reagan the antiabortion child-hater out of office.

But no. Concerned above all with children, the group voted to endorse distribution of contraceptives at school

health clinics after a Raleigh, North Carolina, elementary teacher declared, "Information does not cause pregnancy. Lack of information causes pregnancy." (These people know a revolutionary scientific breakthrough when they hear one.) A social studies and Spanish teacher from Lehi, Utah, reminded them that as educators they were "trained to dispense knowledge, not contraceptives" and added that "teen pregnancy goes up where clinics exist"; he was booed.

His testimony, however, did serve to remind the group that they were there to talk about *education*, for Heaven's sake, so the logical next step was to vote for AIDS education courses; specifically, the material should include information about "abstinence and medically accepted protective devices." The 8,000 teachers then voted to fight the Supreme Court nomination of Robert Bork; "He's a compulsory pregnancy man . . . too conservative on race, women's rights, and reproductive freedom," one teacher told the remaining 7,999, and apparently they believed her. Another vote fought the move to make English the official language of the United States. Then these elementary and high school teachers wrapped up their 125th annual convention by *rejecting* a wacko resolution to support U.S. economic reconstruction aid to the Communist government in Nicaragua (it was near the end and they were weary; the vote was obviously a mistake) and voting to oppose laws requiring school buses to have seat belts. Exhausted, the group left it to the nine-member Executive Committee to decide whether to endorse a gay rights march in Washington.

*Jane Greer was briefly a card-carrying NEA member but pleads the ignorance of youth.*

## Letter From Albion

by Andrei Navrozov

### *The Craft of Art*

If in political and social terms the diminishing role of the aristocracy in Europe was, in the historian's view, inevitable, in cultural terms its dissipa-

tion was not really felt until the turn of the century. Indeed, the intellectual history of our time is a record of careless exploitation and ruthless expropriation of what had once been an aristocratic preserve, with the consequence that it has become increasingly difficult to draw the property line between the high and the low. The book I have before me is a fascinating case study of the universal cultural enfranchisement witnessed by our century, a glimpse of the social processes by which high culture was cut off from its aristocratic past and made to fill the growing demands of common consumption. It is a life of Salvador Dali, by Meryle Secrest.

While still a child in the home of his kind, middle-class parents in a provincial Spanish town, Salvador Dali grasped the fact that bad behavior, when it is presented as eccentricity and even remotely connected with art, is not only tolerated but richly rewarded. Between temper tantrums, the young artist sported "an ermine cape . . . and a matching gold crown studded with topazes." "Before long," observes Miss Secrest, "it became a kind of deadly game, which he played with increasing skill."

The world at large was no less receptive, and by the time Dali had emerged from his indulgent family's cocoon into the macrocosm of Paris in the 1920's, it must have been obvious to him that the game in question was being played throughout Europe by a vast number of artistically inclined men and women. While some had talent and others only ambition, all shared a fondness for the game of *épater le bourgeois*. A 1929 photograph shows Dali, then 25, with Tristan Tsara, Paul Eluard, René Crevel, and André Breton, his newly found intellectual milieu. That year, the film *Un Chien Andalou*, on which he collaborated with Luis Buñuel, depicted the slashing of a human eye with a razor. That same year, Dali exhibited a picture with the scrawled words "*Parfois je crache par plaisir sur le portrait de ma mère*" ("Sometimes I spit with pleasure on my mother's portrait").

It is not surprising that among his contemporaries in Paris Dali became known as "the most important literary painter," the title awarded him by David Gascoyne in 1934. It was Dali

who benefited most from Breton's opaque theorizing, from vague Freudian notions then in the air, from Marinetti's Nietzschean gesticulations. Throughout his life, Dali lectured and wrote extensively, producing a novel, *Hidden Faces*. Although, as literature, the novel is highly derivative, a clumsy attempt to dress the sensibilities of a Huysmans in the idioms of a Musil, it reveals a facile, Protean talent for verbal manipulation. By contrast, a painter like Yves Tanguy ("I've pinched everything from your Uncle Yves," Dali would later admit to the artist's niece) had only his pictures to do the talking for him.

There is no denying that during the decade preceding the outbreak of the war in Europe, Salvador Dali developed and functioned as a painter of major talent, producing the works upon which posterity's favorable judgment of him would rest. (In the words of one picture dealer quoted by Miss Secrest, "Before 1930 he had not found himself and after that decade he was just repeating himself.") Yet it is equally clear that even then, during the one decade of original creativity allotted to him, Dali saw painting as a means of producing merchandise. From the outset, his supreme goal was fame, measured, in a commercial society, in money. He was well ahead of the competition: painters like Tanguy could not talk up their merchandise, while babblers like Tristan Tsara had none to sell. Breton would later distill the envy of a whole generation into his anagram of "Salvador Dali": "Avida Dollars" ("greedy for dollars").

The Big Time, then as now, meant America, where the emperors of a burgeoning upper middle class were in desperate need of new clothes. The success of Dali's first visit to the States

in 1935 exceeded his wildest expectations: "All-Time High in Gotham Smart Set's Traditional Pursuit of New Thrills, No Matter How Crazy, is the Latest Cock-Eyed Rage for Salvador Dali, the 'Super-Realist' Who Paints His Nightmares Which Critics Applaud While Mortals Grow Dizzy" ran the headline in the New York *Sunday Mirror*. Four years later, he consolidated that success by smashing one of the Fifth Avenue shop windows which Bonwit Teller had commissioned him to design, allegedly after an aesthetic disagreement. "Through the Window to Fame," ran the headline, and soon thereafter *Life* magazine would report that he was now one of the richest artists in the world.

But it was not until after the war, when prosperity all but cried out for cultural *épatement*, that Dali became a household name. In fact, "épater" had given way to *crétiniser*, and the stupefied bourgeois was appreciative beyond measure. The "surrealist jester" had now entered the final phase of his life. In 1974, a car stopped by French customs was found to contain 40,000 blank sheets signed by Dali, a routine event for the industry which, it has been estimated, has manufactured some one *billion* dollars worth of "Dali" for sale. "Original" lithographs, etchings, and the like produced with and without the artist's consent are sold throughout the world. They are as fake as the sensibilities of those who buy them.

Perhaps every society deserves the art that it has. A few years ago reviewing a memoir of Chagall in the *Wall Street Journal*, I described how the young artist, self-taught and wild-eyed, escaped from provincial Vitebsk and let his genius transform its dreariness into masterpieces of universal value which the art world of Paris and Moscow was sophisticated enough to appreciate:

By the end of the 20's and the early 30's, Mr. Chagall had caught on, although "fame" did not come until after the war. By "fame," I mean that climate of almost mythological adulation, accompanied by promotional abandon, that has permeated the art market in our time. But what had caught

on was little more than a manner, the artist's initial grappling with a reality that happened to be the reality of Vitebsk.

From then on, the world wanted Vitebsk; it was not interested in how Mr. Chagall would see Paris. In due time, with the help of critics intent of achieving "fame" for him, Mr. Chagall became a machine—a factory designed to manufacture "Chagall-like" views of Vitebsk.

This is a controversial view. The very nature of the public's investment in Mr. Chagall seems to preclude, or at least discourage, an honest analysis of the Chagall phenomenon, which, if it went public today, would doubtless rank on the list of the 500 leading industrials. Nobody wants to blow the whistle.

And, indeed, what is there to blow the whistle on? There is no law to prevent an artist from responding to public demand and marketing a world view that sells. Nor is there anything unlawful in an artist's insider trading, seeking to acquire his early paintings because he alone guesses their true value (sometimes offering as many as six "new works" for one "old," as Mr. Chagall reportedly has been doing). In short, nothing prevents the artist from outgrowing his "holy fool" reputation and making millions off a public grown foolish.

Now, after Chagall's death, the recently revealed Soviet collection of his early work has backed up that controversial view. Chagall is a pure example of an artist who "turns the tables" on society at the expense of his own talent. But what about Dali, who never had even a tenth of Chagall's talent, and what about Miró, Picasso, and other "household" names? Like Chagall, they are the century's classics. Are we their victims—or are they ours?

Andrei Navrozov is poetry editor for *Chronicles*.

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# Letter From the Southwest

by Odie Faulk

## Fast-Food Regionalism

Every day we hear references to North, South, East, and West, to Midwest and Southwest, to Pacific Northwest and, lo, even to Ozarkia, Cascadia, and Siskiyou. All of us speak or write of these geographical areas as if they had narrowly prescribed boundaries readily meaningful to everyone. Yet in reality these designations, as Humpty Dumpty would say, mean only what we want them to mean, "no more and no less." No geographer wishing to retain his reputation would dare print a map of the United States with the various regions given exact boundaries.

I recall from years ago an acquaintance who had grown up in Brownsville, Texas. He had the narrowest definition of what constituted the South that I have ever encountered. He would drawl, "Why, the way I have it figured, anyone from north of the Nueces River is nothin' but a Damnyankee" (the Nueces empties into the Gulf of Mexico at Corpus Christi).

However we define a region, most of us would agree that regionalism has played a major role in American history. In fact, Frederick Jackson Turner, a historian better known for his "frontier thesis," gave a series of lectures in 1918 in which he argued, "It was in the conflict and compromise between the sections that Americanism was formed." Still later he would write, "We in America are in reality a federation of sections rather than of states. State sovereignty was never influential except as a constitutional shield for the section."

Arguments about "constitutional shields" are meaningless to average Americans, but most would agree with Turner that the sections of the United States have contributed much to American culture. The Southwest is the strum of a guitar, a bowl of chili con carne, place names breathing with the romance of Andalusia, Castille, and Leon. The Old South is a fiddled hoedown, fried chicken or a bowl of grits, and an accent as soft as magno-

lias. New England is clam chowder, laconic suspiciousness of outsiders, maple syrup, and hardy independence. And the Midwest, the Northwest, and California have their foods, their attitudes, and their culture.

Our recognition of regionalism is tacitly expressed in the stock characters of television commercials: the Texas sheriff, the New England fisherman, the Southern hillbilly, the Western cowboy, the Californian laid back in his hot tub. Fads in regionalism ebb and flow thanks to these commercials and to other conduits of popular culture. Suddenly everyone has to wear turquoise jewelry, which all too soon is replaced by Stetson hat and cowboy boots. During the era of the Urban Cowboy, the biggest lie in New York City was, "Why, I've worn cowboy boots all my life."

Yet hearing a true New England or Southern accent can be pure pleasure to someone in the Midwest, and anyone who turns up his nose at chicken fried steak, cream gravy, and fried potatoes while in Texas is fit only for treasons and stratagems.

Regionalism indeed has contributed much to the richness and diversity of America, to say nothing of its contribution to our bill of fare in restaurants. But regionalism is, sad to say, on the wane.

First, regionalism is threatened by being trivialized to death. Fast-food places claiming to serve Mexican dishes bear little relationship to what actually is cooked in the Southwest, just as the Colonel does a great disservice to that Southern tradition of fried chicken, mashed potatoes, biscuits, and gravy. Nor do waitresses dressed in pirate garb inside a restaurant built to resemble a ship serve real New England clam chowder. Much of this food is not regional but rather a plastic replica intended to turn a high profit.

Second, regionalism is being diminished by the architecture of our great chain motels, service stations, and restaurants. A McDonald's in Bangor, Maine, looks the same as one in Capistrano, California, just as a weary traveler gets the same plastic cubicle in a Holiday Inn in Del Rio, Texas, as in Juneau, Alaska. No doubt, there are great savings to be had from building a thousand Texaco service stations from the same set of architectural drawings,

but this does little to distinguish Virginia from Oregon or to enhance our appreciation of either.

Another perpetrator of the slow murder of regionalism is the shopping mall. Downtown merchants find it impossible to stay healthy when these leviathans sprout up out of the ground. The growth of a shopping mall generally signals death for businesses in the old central core of most cities. Most Americans, if blindfolded and transported to the middle of almost any giant mall, would be unable on being released to say with certainty if they were in Houston or St. Louis or Seattle or even Toronto. Even to see a name like Macy's or Bloomingdale's or Marshall Field's is not to guarantee where one is, for these stores once associated only with New York or Chicago now anchor malls in Dallas and Houston, Atlanta and Denver. Every mall, no matter where located, has its three or four anchor department stores, its boutiques selling clothes, its record stores with ear-blasting music, its toy emporiums and food kiosks. There is nothing to distinguish one from another to any noticeable degree. Even the seasonal Christmas decorations seem to move from one small mall to the next.

And finally, radio and television inexorably are killing regionalism. Our local announcers, newscasters, and weathermen—"talking hairdos" who are just smart enough to read from a teleprompter—move about from city to city. Gradually they lose the regional accent with which they started their careers. A red-necked Texan like Dan Rather, by the time he becomes anchorman for the CBS evening news, must speak with a broad national accent, just as that radio newsman who spoke with an Oklahoma accent changed his accent at the same time he was changing his name to Paul Harvey and moving to Chicago. The pervasive influence of national radio and television personalities will eventually have us all talking like Tom Brokaw, as we order our "cajun" chicken from the mall restaurant.

*Odie Faulk is author of Arizona: A Short History (University of Oklahoma Press) and of other standard volumes of Southwestern history.*



## SCREEN

### Netting Reagan, or All the President's Legs

by Gary Houston

*"Ronald Reagan," the Movie: And Other Episodes in Political Demonology* by Michael Paul Rogin, Berkeley, CA: University of California Press; \$25.00.

*City of Nets: A Portrait of Hollywood in the 1940's* by Otto Friedrich, New York: Harper & Row; \$25.00.

When Thomas Mann joined the West Coast galaxy of refugees from Hitler, he was writing *Doctor Faustus*—a study of, among other things, national character and demonology. The word meant roughly the same as what Michael Rogin means by it: the counter-subversive drives that label, persecute, and sometimes eliminate pernicious forces in the body politic. In that bizarre Hollywood feudality that Otto Friedrich describes in his history, Mann was to discover the New World's countersubversive variety, with himself cast as a demon. Unlike Bertolt Brecht, Mann was not summoned by the House Un-American Activities Committee, but he did respond to the hearings in a national radio broadcast. "Spiritual intolerance," he said, "political inquisitions, and declining legal security, and all this in the name of an alleged 'state of emergency' is how it started in Germany." Mann warned against this leading to war and even defended Marx as a thinker at least deserving to be read before being rejected. Many Americans felt Mann had chosen a strange way to display his gratitude: "Mr. Mann should remember," Rep. Donald L. Jackson inserted into the

Congressional Record, "that guests who complain about the fare at the table of their hosts are seldom invited to another meal." That was 1949; three years later, Mann moved to Zurich, saying: "I have no desire to rest my bones in this soulless soil, which I owe nothing, and which knows nothing of me."

Friedrich's title is taken from Brecht's *The Rise and Fall of the City of Mahagonny*, a play whose stumblebum fugitives come upon a desolate region they decide to found and design ("It should be like a net," says one) for the capture of worldly riches.

Anti-Communism, which drove out the Communist Brecht as well as Thomas Mann, blacklisted the Hollywood 10, became the instrument for unions to enlist moguls in an alliance against rival guilds. It ended as the theme of a series of undistinguished films, made in atonement for such earlier pro-Second Front war entries as *Mission to Moscow* and *Song of Russia*. Among the losers was Orson Welles, although he was surely kept out of Hollywood for more reasons than his past pro-New Deal politics (profligacy and arrogance, for instance); one has-been comedian attained the public ear by declaring the Boy Wonder "red as a firecracker." He and many more were the losers. One winner was Ronald Reagan.

Friedrich and Rogin lay great significance upon Reagan's choice of title for his 1965 autobiography, *Where's the Rest of Me?* That was his line near the end of the favorite of his films, *King's Row* (1941), in which he wakes up after a terrible accident to learn that a vengeful surgeon has amputated his legs. Preparation for filming the scene was an actor's ordeal that resulted in his finest celluloid moment. Michael Rogin takes this turning point as seriously as does Reagan, albeit with different aims in mind: "How, if your father is a failed shoe salesman, do you avoid stepping on his shoes?" The answer *King's Row* provided was this:

by cutting off your legs. The Christian loses himself as body to find himself as spirit. Reagan was born again in Hollywood by relinquishing "part of myself" (Reagan later wrote) in *King's Row*. And after years of disappointment as a Warner Bros. contract player, Reagan "emerged from . . . his filmed humiliations to enter the Cold War. Reagan, as he tells it, recovered his legs in the struggle to prevent a "Communist takeover of Hollywood," that is, as president of the Screen Actors Guild.

Of course, this Reagan's-legs thesis is not meant to be taken lightly; his point is that the Chief Executive's frame of reference clings to the imagery of legs, supports, props, vertical dependence. To substantiate his thesis, Rogin offers a pastiche of quotations that could be taken as a superb parody of literary criticisms. The Democrats' alternative to his 1981 budget, said Reagan, was like "cutting your legs off at the knees instead of hips"; "I'll put a cast on that lame leg," said the lame-duck President upon reelection, "and that will make a heck of a kicking leg"; and quite a few others, not excluding offhand quips. Surprisingly omitted from the list is Reagan's "gift" to James Watt after his Beach Boys' gaffe.

Rogin's clichéd thesis that Reagan's world view, countersubversion, is based upon the plots of the movies he acted in; so those films, too, are his "legs." The 1940 *Murder in the Air* is the most striking, SDI-presaging instance, for in it enemy agents want secret blueprints for a U.S. weapon which, says an admiral, will "make America invincible in war and therefore be the greatest force for peace ever invented." The question is really whether it is the President or the professor who has confused illusion with reality.

Rogin's cute mythologizing of the President can be read as a commentary on *City of Nets*. We are reminded of the feudal system of Louis B. Mayer at MGM, Darryl F. Zanuck at 20th

Century Fox, Harry Cohn at Columbia, and the rest rather like overlords, with stars in their vassalage. Jack Warner demonstrated this conclusively when Bette Davis fought him in court to sever her seven-year contract.

Their power did not only make the studio bosses feel God-like over writers like Faulkner, Chandler, Cain, Dreiser, and Brecht, or composers like Stravinsky and Schoenberg—but it also gave them a feeling of omniscience about what the American people wanted. The tones of their fulminations and self-justifications imparted the conviction that theirs was a sacred stewardship and that they were not solely kingpins of the market but kingpins of state as well.

Exalted, they denied their particularity. Baited by born-again Zionist Ben Hecht, David O. Selznick felt he had to deny his primary identity was Jewish; approached to produce the first films about anti-Semitism, *Crossfire* (1947) and *Gentleman's Agreement* (1948), the moguls initially hesitated or refused. Flushed with success, they donned the mantle of—to use Rogin's Marxian categories—"the citizen ideal" rather than that of "bourgeois reality," and appealed "against conflict and diversity and for Americanism." Theirs, too, was an immigrant consciousness, but they repressed it or turned it inside out: Friedrich twice refers to Mayer calling somebody a "kike." Henry Ford's way of seeing the world—threatened by a Jewish Communist conspiracy—was not his alone. The moguls were powerless against it. What they could do, as they discovered their kingpin pretensions, squeezed by HUAC into meekness, was to turn in their own—as Warner did to *Mission to Moscow* writer Howard Koch (who also had scripted *Casablanca*)—and make anti-Red pictures.

Ronald Reagan made a few of them. One was 1951's *Storm Warning*, in which the subversives are, strangely, the Ku Klux Klan, though we are made to understand that their business is not to persecute blacks but some kind of nefarious racketeering. Rogin is right in saying that the best of the genre was director Sam Fuller's *Pickup on South Street* (1953), a picture that was good, Rogin surmises, because its anti-Communism was detachable; the

French version, in fact, replaced the original's espionage plot with a criminal one without anyone being the wiser.

These sops may have satisfied HUAC, but Washington wasn't through with the moguls, as Friedrich recounts. It broke the studios' nation-

wide control over the theaters, giving new hope to independent franchises but sounding a death knell to the overlords.

Gary Houston is a former cultural writer and editor for the Chicago Sun-Times.

## POLEMICS & EXCHANGES



### Mr. Kostelanetz Replies:

I wish you had shown me, *before* you published it, Jacob Neusner's accusatory letter (*Chronicles*, September 1987) regarding my "Ask Dr. Grants" (*Chronicles*, April 1987). The issue raised by Neusner is whether or not the current chairman of the National Endowment for the Arts vetoes more decisions of its departmental peer panels than his predecessors. The last time I asked the NEA's press office about the current chairman's vetoes for reasons other than technical, I was told that they did not exist, all rumor and report to the contrary notwithstanding. Now we find an insider revealing that the rumors are true! This discrepancy makes Neusner's demand for more public accounting of chairman's vetoes wholly appropriate; and since he is now an NEA councilor, I hope he will ask for it.

Neusner questions my assertion that the current chairman "exercises, far more frequently than his predecessors" this veto power over democratic processes. My informants, both in the NEA and out, told me that previous NEA chairmen did *not* exercise this power—ever. Since some is considerably more than none, my phrase "far more frequently" is not inappropriate. Since my informants might be wrong, I (and others) would like to hear from Neusner or anyone else who knows

more about the alleged vetoes of previous chairmen! "My impression is that [K.'s] judgment is false." Otherwise, those prior "vetoes" in Neusner's "impression" are strictly his invention. If the current NEA administration is as comparatively modest about chairman's vetoing as he says, you would think it would want to initiate a research report that would take Neusner off the perilous hook on which he has guilelessly suspended himself and them.

Secondly, Neusner accuses me of "no information whatsoever" in referring to "liberal do-gooding operations" that were defunded. Perhaps I should have added that the examples I had in mind were previously funded programs that sent surplus literary magazines to prisoners. In his third paragraph, Neusner attributes two numbered conclusions to me—the first a direct quotation from a passage of mine quoted earlier in his letter and then a second statement similarly in quotes. However, an intelligent reader glancing back in his polemic will notice the latter statement twists in an exaggerated way what was previously quoted from me. This second "quotation" did not appear in my article (and is *not* anything I would say, or believe, even as paraphrase, which it does not pretend to be); aside from two words taken from me, the second quotation is wholly Neusner's invention!

Honest Neusner is, nonetheless, as he also tells us of scandalous "White

House" demands upon the current chairmen of both the NEA and the NEH to reverse more peer panel decisions than they do, and I'm glad that he finds such vetoing to be, in principle, as objectionable as I do. Replying from West Berlin, where you get a visceral sense of the profound differences between East and West, I too commend both chairmen for resisting such efforts—from both politicians and cultural bureaucrats with czaring temptations. One discovery I made here in Berlin was that a second cousin whom I had never met, the writer A.L. Dymshitz (1910-75), was the Soviet cultural commissar in East Germany right after the war. In the course

of hearing about his disagreeable activities, I've come to the conclusion that, if we are to have state support of culture, I know in my gut, as I have written in these pages before (January 1985), that *we don't want to do what is done in the East*. We don't want authoritarian cultural commissars; we don't want politicians influencing cultural policy; we don't want to let "acceptable" bureaucratic connections (or even credentials) become more persuasive than personal achievement in rewarding scholars and artists, etc., etc.

Neusner's concluding paragraph raises the question of whether we should now monitor the NEA's re-

sponses to criticism by seeing whether Francis S.M. Hodsoll will veto grants that departmental panels award to me, known as "Dr. Grants" not only because I give true advice but also because as Neusner notes, I have got several personal fellowships from the NEA. Indeed, I'm counting on you, comrade, to be my watchdog on the NEA premises, because you've already shown that, as a Western intellectual, you need not get your chairman's approval before putting the truth about him and his situation into print.

—Richard Kostelanetz  
West Berlin

## REVISIONS

### One Hand Clapping

As the Congress of the United States goes about curtailing the President's options in the Persian Gulf, Nicaragua, and elsewhere, nothing less than the historical role of the Commander in Chief seems at stake. At the center of any such discussion is the figure of America's first soldier-statesman, George Washington, whose legacy has been examined recently in Don Higginbotham's *George Washington and the American Military Tradition* (Athens, Georgia: The University of Georgia Press).

Higginbotham contends that the U.S. has been served best by a deferential military. Contrasting "diplomatic" generals like Eisenhower, George Marshall, and George Washington (the "Ikes") to soldiers like MacArthur, Pershing, and Sherman (the "Macs"), Higginbotham sees a close cooperation between the military and the Congress as prerequisite for success, either in war or peace.

All that is reasonable enough, yet "Macs" have made a considerable contribution to the nation, and that alone should set us wondering whether Higginbotham's (and not only his) premise may not be too simplistic. "A theatre commander," MacArthur said after his dismissal in 1951, "is not merely limited to

handling his troops; he commands the whole area politically, economically and militarily. . . . When men become locked in battle there should be no artifice under the name of politics which should handicap our men."

When MacArthur applied his credo with success in the 1943-1948 Pacific, nobody in the U.S. Congress complained. It was only when MacArthur wanted to wage war in Korea, instead of "politics by other means," that he ran into trouble. In Vietnam, however, the "Korea Approach" was carried to its logical conclusion. General Westmoreland recorded his own verdict on the fiasco: "Overall control of the military is one thing; shackling professional military men with restrictions in professional matters imposed by civilians who lack military understanding is another."

Upholding the example of heroic George Washington, who battled the British while accommodating his own troops and the Congress (at loggerheads even at that early date), Higginbotham suggests that, for America, there is no other way. "If a soldier would command an army," George Marshall observed, "he must be prepared to withstand those who would criticize the manner in which he leads that army."

In the Revolutionary War, the "system" worked because of the

genius of a single man, George Washington, who combined the qualities of a good soldier with those of a consummate politician. In Eisenhower's case (and Marshall's) it worked because the enemy had bitten off more than they could chew. The war might have been finished earlier (and with better results) with MacArthur's (or Patton's) approach. (The Soviets, who won both the war and peace, let their armies contend only with the enemy.)

Is "civilian control" of the military in time of war truly a precondition for democracy, or merely an American tradition? It would be interesting to speculate what approach George Washington would have taken, were he faced with a truly numerous, well-supplied, and implacable enemy, unwilling to leave the Americans at peace in winter or with the luxury of having large segments of their population either neutral or noncombatant.

Higginbotham's call for a small, highly professional standing army and a well-trained, mass National Guard is in the best tradition of America's volunteer spirit and distrust of standing armies. But it does not address the real problem: Can a system of checks and balances work in a life and death struggle for survival, as the war already on is more than likely to turn out? (MS)

# On 'The Righteousness of Rock'

How disappointing it is to confront someone as forlornly hip as Gary Vasilash (*Chronicles*, August 1987) providing yet another trenchant overanalysis of the cultural implications of rock music, finding again in its grooves only the seeds of parasitism and joyless titillation. (One might be tempted to ask: If one can only be titillated joylessly, why be titillated at all?)

Siding with Robert Pattison's *The Triumph of Vulgarly* (and also perhaps Allan Bloom's *The Closing of the American Mind*), Vasilash proves with panache that even those who should know better can sing the lyrics these intolerant snobs repeat: that rock music is somehow corrosive to the fragile development of youth. But as Vasilash points out, even those most offensive youth of the Woodstock generation graduated from eating Cheerios with their hands to respectable and rewarding positions in modern society. Such maudlin preaching wrongly attributes the behavior of youth to some sort of herd instinct or moth-eaten Hegelian concept of "universal will" instead of properly recognizing and expecting youth to be individually responsible for their actions. Some lesson this teaches.

Rock lyrics bespeak whatever world views, hackneyed love rhymes, or simple sillinesses its songwriters can propel to success and radio overplay. While Jefferson Airplane combined world views and silliness in 60's sloganeering and drug references, a new group like the Rainmakers can make fun of government cheese distribution. These new windblown wholesale condemnations laughably intellectualize rock music and lyrics into some grand cultural force rising to bring about the decline of the West. All this, out of "I don't want to work / I just want to bang on the drum all day"?

Rock music is merely a developing art form, like any other form of music. Its riffs or beats are not inherently corrupting. Vasilash should imagine the likes of Pattison and Bloom reddening at the lyrics of country, reggae, or God forbid, folk. When Bruce

Cockburn sings "you're a bright shining star, Nicaragua," now *that's* subversive.

—Timothy Graham  
Arlington, VA

## Mr. Vasilash Replies

I hardly know where to begin. First Graham throws compliments at me: an association with Allan Bloom; a description as "forlornly hip." Does this guy write reviews for *Rolling Stone*, or what?

So far as I can discern, he seems to be saying that I should leave rock alone because, to borrow a phrase from an early Who tune, "the kids are all right." After all, rock is harmless, and the youths of today should be "individually responsible for their own actions."

I seriously doubt that the kids of today are all right—I suspect that my



colleague Bryce Christensen, editor of *The Family in America*, could supply statistics about drug abuse and pregnancies that would curl Tina Turner's wig. And while I do not think that there is individual responsibility, I have trouble with the role models that are in great evidence in recordings, videos, television, and film roles. Spend a few minutes with MTV, watch Poison, Cinderella, and their ilk in action, extrapolate what actions one might take as a result of their words, postures, and positions, and then we can perhaps figure out why the kids aren't all right.

Graham implies that various other types of music are equally "nasty," as Janet Jackson might put it, which may be true. However, isn't that the exception, not the rule? I don't think, as Graham seems to, that folk music is the *ne plus ultra* of subversion. You could make any supergroup collection of folk singers—Pete Seeger, Joan Baez, and even bring Woody Guthrie

back from the grave—and not make nearly the dent in the social behavior that Jon Bon Jovi can and does make.

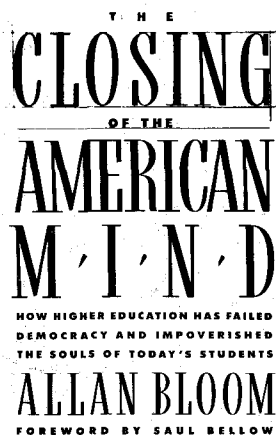
Who has more of an effect: Joni Mitchell or Madonna; James Taylor or Prince? I don't think that Joni could become a superstar even if she did cavort about in an S&M outfit, a la some Wanna-bes, and while Taylor may have seen fire and rain, Prince, along with Sheila E., Vanity, and the masses that worship at the throne, could show him things he's never imagined.

Graham's argument comes straight from Jagger and Richards: "It's only rock and roll." But then he undercuts that by claiming it's a "developing art form." In either case, it's implied, people should not critically examine it. But as a recent story in *Forbes* noted, what may be "only" rock is actually helping reduce the trade imbalance; it's far from trivial in an economic sense. And if we should be nice to "developing art forms," shouldn't we be even nicer to the novel, which some say is in a terminal state, or the visual arts, which seem to be suffering the effects of schizophrenia, or the theater, which could be in the throes of senility?

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